



# राजपत्र, हिमाचल प्रदेश

## हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड 19]

शिमला, शनिवार, 6 फरवरी, 1971/17 माघ, 1892

[संख्या 6

६ फरवरी, १९७१/१७ मार्च, १८९२ को समाप्त होने वाले सत्त्वाह में निम्नलिखित विज्ञियों 'असाधारण राजपत्र, द्विमात्र ब्रद्वान' में प्रकाशित हुईं:—

विज्ञप्ति की संख्या	विभाग का नाम	विषय
No. 14-7/66-Home, dated the 13th August, 1971.	Home Department	Authorising the carrying out of field firing and artillery practice by Army authorities throughout the notified area in Kangra district.
No. 6-26/68-LR, dated the 16th January, 1971.	Law Department	The Himachal Pradesh Registration of Hotels and Travel Agents Act, 1970 (Act No. 22 of 1970).
No. 312/68-Elec., dated the 1st February, 1971.	Election Department	Republication of the Election Commission of India's notification No. 434/HP/71, dated the 30th January, 1971.
No. 6-4/69-Elec., dated the 3rd February, 1971.	-do-	Republication of the Election Commission of India's notification No. 56/71-VII, dated the 1st February, 1971. Regarding Black out exercises in Soodi town on the 5th February, 1971.
No. 1-1/62-CCD II, dated the 2nd February, 1971.	General Administration Department	Conferring powers under the Representation of People Act, 1951.
No. 3-14/71-Elec., dated the 3rd February, 1971.	Election Department	Republication of the Election Commission of India's notification No. 56/70-V, dated the 30th January, 1971.
No. 6-4/69-Elec., dated the 3rd February, 1971.	-do-	Republication of the Election Commission of India's notification No. 56/71-VI, dated the 30th January, 1971.
No. 6-4/69-Elec., dated the 3rd February, 1971.	-do-	Republication of the Election Commission of India's notification No. 56/71-IV, dated the 30th January, 1971.
No. 6-4/69-Elec., dated the 3rd February, 1971.	-do-	Republication of the Election Commission of India's notification No. 56/71-III, dated the 28th January, 1971.
No. 6-4/69-Elec., dated the 3rd February, 1971.	-do-	

भाग 1—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश सरकार  
FOREST DEPARTMENT  
NOTIFICATIONS

Simla-4, the 13th January, 1971

No. 3-136/69-SF.—Whereas it appears to the Lieutenant Governor of the Himachal Pradesh that it is desirable to provide for the conservation of sub-soil water or the preservation of erosion in the areas (specified in the schedule below) which are subject to erosion or likely to become liable to erosion, the Lieutenant Governor of Himachal Pradesh is, therefore, pleased to direct in exercise of the powers conferred by section 3 of the Punjab Land Preservation Act, 1900 (II of 1900) that—provision should be made accordingly.

SCHEDULE

District: KANGRA

Tehsil: UNA

Village and H.B. No.	Area in Acres
Saloh H.B. No. 5	1099
Nangal Jarialan H.B. No. 129	1686
Gondpur H.B. No. 94	302
Mubarakpur H.B. No. 138	290
Kalruhi H.B. No. 141	527
Tetehra H.B. No. 160	1854
Kuthar Khurd H.B. No. 210	435
	(Whole area of village).
Satleta H.B. No. 443	135
Chatra H.B. No. 458	1433
Palikwah H.B. No. 469	1174

By order,  
P. K. MATTOO,  
Secretary.

Simla-4, the 13th January, 1971

No. 8-5/70-SF.—Whereas the Forest land or the waste land specified in the schedule appended hereto are the properties of the Government or the Government has proprietary rights therein or the Government is entitled to the whole or any part of the forest produce thereof;

And whereas, the Government proposes to constitute the aforesaid forest land or waste land as Reserve Forest under section 3 of the Indian Forest Act, 1927;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, the Lieutenant Governor (Administrator) hereby declares that it has been decided to constitute said land as Reserved Forest and further appoints Shri D. D. Sharma, Tehsildar, and Assistant Collector 1st Grade, Chamba as the Forest Settlement Officer to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits or in or over any forest produce and to deal

with the same as provided in Chapter II of the said Act.

Name of the District: CHAMBA.

Name of the Tehsil: CHAMBA.

Name of the Forest. KHAJJAR D.P.F.

Serial No.	Compart- ment No.	Area in Acres	Boundaries
			4
1.	C.I.	190	North.—Pillars 29 to 32. East.—Pillars 33 to 56 & 7. South.—Pillars 6 to 12. West.—Main Ridge (Pukher Behi or Devi-di-Behi).
	C.II.	107	North.—Pukher Behi. East.—Main Ridge. South.—Pillars 12 to 14 and Inspection Path. West.—Inspection Path or Pillars 12 to 19.

Sd/ P. K. MATTOO,  
Secretary.

Simla-4, the 14th January, 1971

No. 3-136/69-SF.—Whereas it appears to the Lieutenant Governor of the Himachal Pradesh that it is desirable to provide for the conservation of sub-soil water or the preservation of erosion in the areas (specified in the schedule below) which are subject to erosion or likely to become liable to erosion, the Lieutenant Governor of Himachal Pradesh is, therefore, pleased to direct in exercise of the powers conferred by section 3 of the Punjab Land Preservation Act, 1900 (II of 1900) that—provision should be made accordingly.

SCHEDULE

District: KANGRA

Tehsil: UNA

Village and H.B. No.	Area in Acres
Samnal H.B. No. 466	38
Seri H.B. No. 176	11
Sainswal H.B. No. 464	16
Malahat H.B. No. 206	41
Dyapur H.B. No. 265	140
Pubowal H.B. No. 523	153
Madanpur H.B. No. 456	75
Dilwan H.B. No. 171	21
Hamboli H.B. No. 175	100
Kungrat H.B. No. 527	214
Sikri H.B. No. 6	111
Dhar Gujran H.B. No. 100	90
Chotehr Behr H.B. No. 108	13

By order,  
P. K. MATTOO,  
Secretary.

Simla-4, the 14th January, 1971

No. 3-136/69-SF.—Whereas certain areas mentioned in the schedule below are comprised within the limits of the local areas notified under section 3 of the Punjab Land Preservation Act, 1900 (II of 1900) by Himachal Pradesh Government notification of even number, dated 13-1-1971

and whereas in respect of the said areas, the Lieutenant Governor of Himachal Pradesh is satisfied after due enquiry that the regulations, restrictions and prohibitions hereinafter specified are necessary for the purpose of giving effect to the provisions of the said Act, the Lieutenant Governor of Himachal Pradesh in exercise of the powers conferred by section 5 of the said Act, is pleased to prohibit the following acts for a period of 20 years with effect from the date of this notification in the said areas.

1. The cutting of trees or timber for any purpose provided that the Divisional Forest Officer, Una Forest Division may permit—

- (a) The cutting of green trees for house buildings and agricultural implements and of dry wood for any fuel and for marriage and death ceremonies by persons shown in the settlement records as entitled to do so; and
- (b) the lopping of branches for lac and sale of chal leaves to leather workers.

2. The collection or removal of grass for any purpose provided that the Divisional Forest Officer, Una, may permit.—(a) The cutting or sale of ripe grass after the rainy season; and (b) the cutting or sale of green grass during the rainy season from such portions of the notified area in which grass may have sufficiently established itself.

3. The pasturing of any cattle other than sheep, goats or camels:—

#### SCHEDULE

*District:* KANGRA

*Tehsil:* UNA

Village	Description	Area in Acres	1		
			2	3	
SALOH H.B. No. 5.	Khasra Nos. 1, 2, 229, 374, 381, 382, 388, 395, 1940, 1945, 1998, 2272 to 2277, 2374 to 2383, 2397, 2464, 2465, 2472 to 2477, 2487, 2495 to 2497, 3005/2503, 2511, 2543, 2549 to 2574, 2690, 2694, 2752 to 2757, 2763 to 2772, 2794, 3081/2795, 3082/2795, 2796, 2859, 2861, 2877 to 2882, 2895, 2943, 2944, 2948 to 2951.	504			
GONDPUR H.B. No. 94.	Khasra Nos. 1, 2, 2/1, 3, 4, 835 min, 837 min.	35			
MUBARKPUR H.B. No. 138.	Khasra Nos. 989, 992, 1022 to 1024, 1026 to 1030, 1035/1, 1047, 1048, 1053, 1086, 1099, 1101, 1105 to 1108, 1110, 1112 to 1114, 1122, 2742, 3321 to 3325, 8339 to 3344, 3350 to 3352, 3393, 3394, 3398, 3400 to 3428, 3430 to 3445, 3447 to 3449, 3449/1, 3453 to 3455, 3457, 3462, 3471 to 3489, 3490 to 3508, 3511, 3513, 3517, 3520, 3544 to 3549, 3561, 3564 to 3577, 3577/1, 3581 to 3598, 3600, 3600/1, 3617, 3924 to 3928, 3938, 3954, 3956 to 3958, 3970 to 3972, 3974, 3976 to 3983, 3985 and 3986.	116			

	1	2	3
KELRUHI H.B. No. 141.	Khasra Nos. 1 to 11, 13 to 19, 21 to 24, 26 min, 55, 61, 62 min, 63, 64 min, 68 min, 70 min, 72 to 81, 84, 85 to 90, 92, 93, 96, 108, 109, 111, 122, 124 to 126, 128 to 130, 132, 133, 136, 137, 141 to 144, 148, 150, 152 to 159, 161, 164, 165, 167, 168 min, 169, 171 to 182, 338, 341, 350, 355, 256, 377 min, 378 min, 381, 383, 385 to 389, 390 min, 391 to 398, 400, 402 to 404, 406 to 408, 517, 518, 613 min, 624 to 626, 628, 629, 635 to 668, 670, to 673, 675 to 679, 682, 684, 686 to 689, 692 to 694, 696, 698, 699, 702 to 704, 706, 708, 711 to 726, 1142 to 1150, 1152, 1153, 1165 to 1181, 1183, 1184, 1186 to 1190, 1195 min, 1747 min, 1748 to 1752, 1756, 1757, 1759, 1760, 1765, 1769, 1810 to 1818, 1820 to 1822, 1824 and 1825.		357
TATEHRA H.B. No. 160.	Khasra Nos. 1646/1, 2, 3, 10, 1647/4, 5, 7, 8, 6, 1648/9-14, 15 to 18, 1649/19-29-30-20, 1650/21, 22, 23, 1651/24-25, 1652/26-27, 28, 31 to 33, 1653/34-35 1654/36-37-63-64, 1657/65-66 to 68-69-70-67., 71 to 89, 1662/124-126 to 130, 1803/125 to 1806/125-131 to 134, 136 to 141, 142 min, 144 to 152, 154, 155, 159 to 165, 177, 1666/179-180, 181, 182, 1910, 196, 202, 204 to 211, 1670/212/1, 1670/212/2, 212/3, 213 to 217, 1671/218 to 1674/218, 1676/219 to 221, 222, 1678/226, 228, 245 min, 246 min, 247 to 249, 250 min, 251, 252 min, 253 min, 290 to 298, 303 min, 359 min, 360 min, 1688/436 to 439, 692 min, 700 min, 708 min, 709 min, 710 min, 711 min, 712 min, 739, 811 min, 812, 813 min, 889, 890, 891 min, 893, 897 min, 898, 899 min, 996, 1008, 1009, 1010 min, 1011 to 1013, 1015, 1016, 1021, 1740/1022 to 1024, 1025 to 1027, 1029, 1374, 1382, 1383, 1429 to 1431, 1766/1433, 1434, 1435 and 1519.		756
KUTHAR H.B. No. 210.	Khasra Nos. 1196, 1226, 1331 to 1335, 1355 to 1358, 1390, 1391, 1412, 1413, 1416, 1421, 1422, 1440, 1442 to 1447, 1472, 1476 to 1478, 1480 to 1483, 1485, 1486, 1488 to 1494, 1496, 1514, 1525 to 1545, 1555 to 1559, 1574, 1578, 1599 to 1601, 1603 to 1607, 1648 to 1661, 1675 to 1678, 1680 to 1682, 1706 to 1709, 1742, 1742/1, 1743, 1747 to 1779, 1787, 1787/1, 1788, 1810 to 1812, 1814 and 1815.		63
SATTELET H.B. No. 443.	Khasra Nos. 778, 787 and 788		62
CHATRA	Khasra Nos. 3800/1735 to 3802/		688

1	2	3
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H.B. No. 458. 1735, 1864 to 1866, 1906 to 1912, 1917 to 1923, 1970 to 1972, 3845/1973, 1974, 1975, 2008, 2009, 2012 to 3849/2014, 3851/2014, 4693/2111, 4694/2111 to 4666/2111, 2119 to 2119/2, 2123 to 2126, 2135, 2136, 2153 to 2155, 2159 min, 2160 min, 2163 to 2165, 2238 to 2249, 2320, 3859/2321, 2322, 2323, 2349 to 2351, 2368 to 2376, 2861 to 2863, 3015, 3016, 3037, 3038, 3873/3083 to 3086, 3090 to 3120, 3121/2, 3146, 3258 to 3263, 3265 to 3324, 3330, 3386, 3400 to 3409, 3412 to 3417, 3436 to 3500, 3581 and 3886/3651.

RALKWAH Khasra Nos. 1 to 32, 48, 452 to 454, 731 H.B. No. 469. 460 to 475, 503, 504, 564, 565, 574, 577, 631 to 643, 693, 784 to 802, 805, 815, 834, 835, 838, 847, 862, 874 to 876, 895, 914, 937 to 942, 972 to 983, 984/2, 989, 990, 993, 998, 1371, 1372, 3106, 3247, 3426, 3428, 3334 to 3440, 3442 to 3446, 3533, 3547, 3563, 3567, 3568, 3573 to 3576, 3577/1 to 3577/3, 3578 to 3586, 3588, 3590, 3592, 3593, 3776 to 3780, 3782/1, 3781/1/1, 3818, 3851, 3950/1, 3951, 3952, 3956, 3957/1, 3957/2, 3958 to 6931/3960, 3961 to 3976 and 4388.

Simla-4, the 14th January, 1971

No. 3-136/69 SF.—Whereas the Lieutenant Governor of Himachal Pradesh is satisfied after due enquiry that the regulations, restrictions and prohibitions hereinafter contained are necessary for the purpose of giving effect to the provisions of the Punjab Land Preservation Act, 1900 (II of 1900) the Lieutenant Governor of Himachal Pradesh in exercise of the powers conferred by section 4 of the said Act, is hereby pleased to prohibit and regulate temporarily the following acts for a period of 20 years with effect from the date of this notification in the areas specified in the schedule annexed to this notification forming parts of the villages in the Una tehsil of Kangra district.

1. The clearing or breaking or cultivating of malkiat land not ordinarily under cultivation prior to the publication of the Himachal Pradesh Government notification of even number, dated 13-1-1971, provided that the breaking up of the land for cultivation may be permitted by the Divisional Forest Officer, Una Forest Division.

2. The quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the said notification except with the permission of the Collector of the Kangra district who will consult the Divisional Forest Officer, Una Forest Division before according such permission.

3. The cutting of trees or timber or the collection or removal or subjection to any manufacturing process of any forest produce other than grass, flower, fruit and honey save for bonafide domestic or agricultural purposes of right holders provided that the owners of the land may sell trees or timber after first obtaining the permission to do so from the Divisional Forest Officer, Una Forest Division, such permit will prescribe such conditions for the sale as may from time to time appear necessary in the interest of forest.

### CONSERVANCY

4. The setting on fire of trees or timber or forest produce.

5. The admission, herding, pasturing or retention of sheep, goats or camels provided that in cases where sickness necessitates the keeping of goats for milk the Divisional Forest Officer, Una Forest Division may issue a permit at his discretion for the retention of limited number of stall fed goats to be specified for a specified period.

### SCHEDULE

District: KANGRA Tehsil: UNA

Village	Description	Area in Acres	
		1	2
SALOH	Khasra Nos. 1, 2, 229, 336, 337, 347, 348, 364, 379 to 382, 388, 389, 391 to 393, 395, 406 to 426, 423, 427, 528 to 530, 892 to 916, 3237/917, 918, 919, 921 to 931, 1031 to 1034, 1097, 1098, 1105, 1109, 1125, 1136, 1145, 1149, 1155, 1156, 3115/1464, 3116/1464, 1465 to 1473, 1508, 1512, 1514 to 1516, 1518, 1520, 1522, 3053/1523 to 3058/1523, 3071/1553 to 3074/1553, 1554 to 1571, 1613, 1614, 1623, 1624, 1626, 1627, 1630 to 1633, 3245/1636, 3247/1637, 3248/1637, 1638, 1667, 1671, 1674, 1675, 3322/1702 to 3328/1702, 1722 to 1730, 1732, 1733, 1755 to 1757, 1760, 1762, 1763, 1766, 1767, 1803, 1804, 1809, to 1811, 1839, 1840, 1843, 1844, 3544-45/1, 1846, 1847, 1850 to 1854, 1857, 1858, 1860, 1865, 1925, 1926/1, 1926/2, 1936, 3297/1940, 1945, 1947 to 1950, 1997, 1998, 2022, 2025, 2027, 2028, 2029 to 2032, 2040, 2132, 3307/2208, 2220 to 2222, 2267, to 2277, 2374 to 2383, 2389, 2392, 2397, 2398 min, 2464, 2465, 2472 to 2477, 2487, 2495, 2497, 3305/2503, 2504, 2505, 2511 to 2515, 2517, 2536 to 2541, 2543 to 2574, 3303/2576, 2671 min, 2672, 2673, 2690 to 2694, 2741, 2752 to 2757, 2760, 2762, 2763 to 2769, 2770 to 2772, 2794 to 2796, 2859 to 2861, 2877 to 2882, 2895, 2935, 2939, 2943, 2944, 2948, 2951.	1099	
H.B. No. 5.	Khasra Nos. 1, 2, 229, 336, 337, 347, 348, 364, 379 to 382, 388, 389, 391 to 393, 395, 406 to 426, 423, 427, 528 to 530, 892 to 916, 3237/917, 918, 919, 921 to 931, 1031 to 1034, 1097, 1098, 1105, 1109, 1125, 1136, 1145, 1149, 1155, 1156, 3115/1464, 3116/1464, 1465 to 1473, 1508, 1512, 1514 to 1516, 1518, 1520, 1522, 3053/1523 to 3058/1523, 3071/1553 to 3074/1553, 1554 to 1571, 1613, 1614, 1623, 1624, 1626, 1627, 1630 to 1633, 3245/1636, 3247/1637, 3248/1637, 1638, 1667, 1671, 1674, 1675, 3322/1702 to 3328/1702, 1722 to 1730, 1732, 1733, 1755 to 1757, 1760, 1762, 1763, 1766, 1767, 1803, 1804, 1809, to 1811, 1839, 1840, 1843, 1844, 3544-45/1, 1846, 1847, 1850 to 1854, 1857, 1858, 1860, 1865, 1925, 1926/1, 1926/2, 1936, 3297/1940, 1945, 1947 to 1950, 1997, 1998, 2022, 2025, 2027, 2028, 2029 to 2032, 2040, 2132, 3307/2208, 2220 to 2222, 2267, to 2277, 2374 to 2383, 2389, 2392, 2397, 2398 min, 2464, 2465, 2472 to 2477, 2487, 2495, 2497, 3305/2503, 2504, 2505, 2511 to 2515, 2517, 2536 to 2541, 2543 to 2574, 3303/2576, 2671 min, 2672, 2673, 2690 to 2694, 2741, 2752 to 2757, 2760, 2762, 2763 to 2769, 2770 to 2772, 2794 to 2796, 2859 to 2861, 2877 to 2882, 2895, 2935, 2939, 2943, 2944, 2948, 2951.	1099	
NANGAL	Khasra Nos. 1 to 5495.	1686	
JARIALA			
H.B. No. 129.			
GONDPUR	Khasra Nos. 1 to 6, 7 to 769, 772,	302	
H.B. No. 94.	773, 776, to 932.		
MUBARAK	Khasra Nos. 1 to 3, 74 to 81, 85, 86,	300	
PUR H.B. No. 138.	88, 89, 989, 992 to 994, 1022 to 1030, 1035/1, 1047, 104, 1053, 1086, 1099, 1101, 1105 to 1108, 1110, 1112 to 1114, 1122, 1143, 1147 to 1158, 1210 to 1212, 1212/1, 1213 to 1217, 1219 to 1222, 1224 to 1227, 1416 to 1419, 1419/1, 1420 to 1423, 1472, 1482, 1484, 1486 to 1493, 1495, 1505, 1640, 1653, 1728 to 1735, 1735/1, 1736 to 1742, 1747, 1753, 1764,		

1	2	3	1	2	3
	1767 to 1770, 1772 to 1774, 2026 to 2029, 2742, 2915 to 2917, 2919, 2961 to 2966, 3321 to 3326, 3339 to 3344, 3350 to 3352, 3393, 3394, 3398, 3400 to 3449, 3449/1, 3452 to 3455, 3457, 3462 to 3464, 3471, to 3489, 3489/1, 3490 to 3501, 3511, 3513, 3517, 3520, 3534, 3544 to 3549, 3561, 3564 to 3577, 3577/1, 3581 to 3606, 3610 to 3619, 3924 to 3928, 3936, 3941, 3953, 3954, 3955 to 3958, 3964/2, 3969 to 3986, 4001, 4004, 4041 to 4044, 4187 to 4190, 4195 to 4197, 4199 to 4210, 4212, 4213, 4214, 4216/1, 4457 to 4460.		1810/1630/314 to 1813/1630/314, 315 to 322, 1680/323 to 1685/324, 325 to 340, 1814/341 to 1818/341, 342 to 346, 348, 349, 1631/350, 1632/350, 351 to 374, 1686/375, 377, 378, 376, 379 to 385, 385/1, 386 to 390, 392 to 402, 1567/403, 1568/ 403, 404 to 407, 1818/408, 1819/408, 409 to 412, 1613/1571/413 to 1615/ 1571/413, 414 to 418, 420, 1687/421 to 423, 424, 1820/425, 1821/425, 426 to 429, 431, 432, 435, 1628/436 to 439, 440, 1689/441, 443, 444, 447, 626, 632, 637, 1720/638-639, 640, 641, 677, 678, 680 to 684, 1801/685-686, 687 to 696 698 to 702/1, 703 to 719, 1724/ 720-721-724 to 726, 722, 723, 727 to 742, 744 to 754, 1799/755-756, 757 to 763, 1725/765-766, 767, 768, 770, 1926/771/1 to 1928/771/3, 772 to 787, 789, 1726/790-791, 792 to 799, 800 to 817, 1727/818-819, 820 to 862, 1728/863, 1729/863, 1929/ 1730/863, 1930/1730/863, 864 to 867, 1731/868-869, 870, 872, to 914, 916, to 924, 926, 927, 1723/928 to 930, 931 to 933, 935 to 937, 1616/938, 1617/938, 1575/939, 1576/ 939, 940 to 959, 1577/960, 1578/960, 961 to 963, 1636/964 to 1639/965, 966, 967, 969 to 971/1733/972-973, 974 to 1976, 1859/977, 1860/977, 978 to 982/2, 1734/983-84, 985 to 998, 998/1, 999, 1000, 1735/1001, 1738/1001, 1002 to 1005, 1729/1006, 1007, 1008 to 1021, 1740/1022 to 1024, 1025 to 1032, 1056 to 1058, 1062, 1912/1063, 1913/1063, 1064 to 1067, 1084, 1794/1109, 1110, 1111 to 1116, 1118, 1119, 1120, 1122, 1212 to 1219, 1263, 1931/1264/1, 1932/1264/ 2, 1264/1, 1324, 1325, 1352, 1353, 1353, 1353/1, 1354 to 1356, 1360, 1750/1368 to 1370, 1797/1371-1407/ 1, 1751/1372, 1373, 1374, 1752/1375- 1376, 1753/1-77 to 1755/1377, 1378, 1756/1380-1381, 1382, 1383, 1757/1384 1388, 1385. to 1387, 1758/1389-1391, 1390, 1392 to 1402, 1759/1403 to 1405, 1760/1406 to 1763/1406, 1407 to 1411, 1764/ 1415, 1416-1418, 1765/1427, 1428, 1429 to 1432, 1766/1433, 1434, 1435, 1437, 1767/1438-1534, 1933/1440/1, 1934, 1440/2, 1935/1440, 1768/1441- 1610, 1611/1442, 1443, 1444, 1468, 1469/1, 1469/1, 1469/2, 1479/1. 1479/ 2, 1480, 1481, 1773/1485, 1485-1486- 1520-1521 -1523 - 1531, 1774/1487-1488, 1775/1494, 1495- 1922/2498, 1923/1498, 1499, 1519, 1780/1522-1524, 1530 1536, 1782/ 1537, 1538, 1792/1539, 1540, 1936/ 1541, 1937/1541, 1783/1542 to 1785/1542, 1543 to 1546, 1894/ 1547, 1897/1547, 1548, 1549, 1786/1550 to 1788/1550, 1551 to 1555, 1789/1557 to 1561, 1790/1563 to 1565, 1566.		
KALRUHI H. B. No. 141.	Khasra Nos: 1 to 11, 13 to 24, 26 min, 55, 59 to 61, 62 min, 63, 64 min, 68, 70 min, 72 to 81, 84 to 90, 92, 93, 96 to 98, 99 min, 108 to 112, 122, 124 to 130, 132, 133, 136, 137, 141 to 145, 148, 150, 152 to 159, 161, 164, 165, 167, 168 min, 169, 171 to 182, 338, 341, 350, 355 to 358, 362, 363 min, 365, 367, 370 to 375, 377 min, 378 min, 380, 381, 383, 385 to 389, 390 min, 391 to 398, 400, 402 to 404, 406 to 408, 497, 508, 517 to 525, 223, 530, 534, 535, 613 min, 624 to 626, 628, 629, 635 to 668, 670 to 673, 675 to 679, 682, 684, 686 to 689, 692 to 694, 696, 698, 699, 702 to 704, 706, 708 to 727, 729 to 731, 730 to 762, 776 to 778, 780, 785, 979, 985 to 988, 999, 1039, 1040, 1070, 1142 to 1150, 1152, 1153, 1155 to 1181, 1183, 1184, 1186 to 1190, 1495, 1721 to 1724, 1738 to 1740, 1743, 1744, 1747 min, 1748 to 1757, 1759 to 1765, 1767 to 1770, 1808, 1810 to 1918, 1820 to 1822, 1824, 1825, 1829, 1830, 1885.	527			
TATEHRA H. B. No. 160.	Khasra Nos. 1646/1, 2, 3, 10, 1647/4, 5, 7, 8, 6, 1648/9-14, 11 to 13, 15 to 18, 1649/19-29-30, 20, 1650/21-22, 23-1651/24-25, 1652/26-27, 28, 31 to 33, 1653/34-35, 1645/36-57, 38 to 44, 1655/45-46, 47 to 54, 1658/55-56, 57 to 64, 1657/65-66-68-69-70, 67-71, 79/1, 80 to 90, 165/91-93-92-94, 95, 95/1996, 91/1, 97 to 99, 1660/100 1661/100, 101 to 106, 1659/107 to 109, 110 to 123, 1662/124-126-130, 1803/125 to 1806/125, 131 to 137, 137/1, 138 to 155, 1620/156 to 1622/ 156, 157 to 168, 1663/169-170, 171, 1664/172-173, 1665/174-175, 176 to 178, 1666/179-180, 181 to 188, 189 min, 190 to 200, 1667/201 to 669/ 201, 202 to 211, 1670/212/1-212/2, 212/3, 213 to 217, 1671/218 to 1675/218, 1676/219 to 221, 222, 1677/223-224, 225, 1678/226 to 228, 229 to 249/1, 250 to 262, 1679/263- 264, 265, 266 to 272, 274, 277 to 279, 1625/280 to 1627/280, 281, 283 to 285, 1807/286, 1809/286, 287 to 304, 306 to 313, 1628/314, 1629/314,	1854			

1	2	3
KHURD. H.B. 210	Khasra Nos. 1 to 815 Whole area of village.	435
SATLETA H.B. 443.	Khasra Nos. 1 to 37, 116 to 119, 131, 143 to 190, 253, 630 to 757, 759, to 788.	135
GHATARA H.B. 458.	Khasra Nos. 3800/1735 to 3802/1735, 1736 min, 4007/1745 min to 4011/1745 min, 1746 min, 1749 min, 1772, 1802, 1807 to 1834, 1836 to 1852, 1854 to 1864 to 1985, 1986 min, 1987 to 2016, 2037, 2040, 4602/2054, 2106, 4693/2111, 4694/2111 to 4696/2111, 2112, 2113, 4037/2115 2117 to 4054/2142, 2153 to 2155, 2156 min, 2159 min, 2160 min, 2161 to 2164, 2165 to 2213, 2216, 2217, 2230 to 2254, 2255/1, 2256, 2260 to 2287, 2288 min, 2289 to 2291, 2293 to 2377, 2379, 2562, 2564 to 2566, 2836 to 2928, 2951, 2963, 2964, 2972, 2973 min, 2974, 4237/2987 to 2988, 3014 to 3016, 3037 to 3054, 3056, to 3074, 3076 to 3234, 3236 to 3242, 3243 min, 3244 to 3247, 3249, 3250 min, 3251 to 3531, 3534 to 3578, 3581 to 3886/3651.	1433,
PALKOWAH H.B. 469.	Khasra Nos. 1 to 154, 160 to 162, 178, 313 to 316, 323 to 327, 452 to 454, 457 to 6823/856, 857 to 985, 993, 998, 1370 to 1372, 1452, 1454, 1464, 1470, 1771, 1480, 1481, 1503, 1504, 8213/1591, 8214/1591, 1592 to 1596, 2057, 2067 to 2070, 2073, 2074, 2078, 2086, 3033 to 3035, 3046 to 3048, 8625/3052, 8626/3052, 3053, 3102, 3105 to 3110, 3115, 3120, to 3140, 3142 to 3145, 3147 to 3152, 3161, 3257, 3369, 3401 to 3429, 3432, 3434 to 3440, 3442 to 3446, 3448 to 3452, 7371/ 3454 to 7373/3454, 3455 to 3458, 6655/3459, 6656/3459, 3460, 7374/ 3461 to 7376/3461, 7611/3461, 6917/ 3462, 6918/3462, 3533, 3547, 3563, 3567, 3568, 3573 to 3586, 3588, 3590, 3592, 3593, 3604, 3606, 3692, 3765, 3766, 3773, 7389/3774 to 7393/ 3774, 7876/3775, 7394 to 7878/3775- 3794, 3776 to 3781/2, 3818, 3851, 3950/1, 3982, 4386 to 4390, 4543, 4544.	1174

Simla-4, the 16th January, 1971

No. 3-136/69-SF. - Whereas certain areas mentioned in the schedule below are comprised within the limits of the local areas notified under section 3 of the Punjab Land Preservation Act, 1900 (II of 1900) by Himachal Pradesh Government notification No. (.), dated 14-1-1971 and whereas in respect of the said areas, the Lieutenant Governor of Himachal Pradesh is satisfied after due enquiry that the regulations, restrictions and prohibitions hereinafter specified are necessary for the purpose of giving effect to the provisions of the said Act, the Lieutenant Governor of Himachal Pradesh in exercise of the powers conferred by section of the said Act is

pleased to prohibit temporarily the following acts for a period of 20 years with effect from the date of this notification in the said areas.

1. The cutting of trees or timber for any purpose provided that the Divisional Forest Officer, Una Forest Division may permit:-

- (a) the cutting of green trees for house building and agriculture implements and of dry wood for any fuel and for marriage and death ceremonies by persons shown in the settlement records as entitled to do so; and
- (b) the lopping of branches for lac and the sale of chal leaves to leather workers.

2. The collection or removal of grass for any purpose provided that the Divisional Forest Officer, Una Forest Division may permit—

- (a) The cutting or sale of ripe grass after the rainy season; and
- (b) the cutting or sale of green grass during the rainy season from such portions of the notified area in which grass may have sufficiently established itself.

3. The pasturing of any cattle other than sheep, goats and camels:—

#### SCHEDULE

District: KANGRA		Tehsil: UNA
Village	Description	Area in Acres
1	2	3
SERI H.B. No. 176.	Khasra Nos. 15, 50, 54, 56, 57, 89 to 92, 227 to 251, 254 to 271, 277 to 282, 285 to 289, 291 to 298, 300, 305, 306, 312, 347 to 356, 358 to 360, 365, 367 to 371.	28
SAINSO- WAL H.B. No. 464.	Khasra Nos. 2136/1380 to 2138/ 1380, 1381, 2139/1382, 2140/1382, 2141/1383 to 2145/1383, 2146/1384, 2147/1384, 1385, 1386, 2148/1387 to 2166/1391.	104
MALAHAT H.B. No. 206.	Khasra Nos. 206 to 210, 213 to 220, 3209/221 to 3211/221, 3217/223, 3218/223, 224 to 226, 3222/227, 3224/228, 3225/228, 229 to 3245/244, 246 to 248, 273, 275 to 278, 3341/ 1444 to 1449, 1454, 1455, 3353/ 1473 to 3355/1473, 1481 to 1506, 1510 to 1536, 3362/1555 to 1572, 3370/1575 to 1606, 1661 to 3373/ 1662 and 1670 to 3382/1683.	121
DYAPUR H.B. No. 265.	Khasra No. 18/18-19-21 to 23, 19/25, 20/16-17-24-25, 21/4-8-11 to 25, 22/ 1 to 4-7 to 25, 23/21, 24/1-10 to 12- 19 to 22, 25/1 to 25, 26/1 to 25, 27/4 to 7-14 to 17-24-25, 28/4/1 to 17/2- 24-25, 29/1 to 15-19-20, 30/1 to 5-8 to 10, 31/1.	138
PUBOWAL H.B. No. 523.	Khasra Nos. 19, 22, 27 to 30, 44, 55 to 63, 66 to 69, 72 to 83, 86 to 89, 91, 92, 94 to 97, 103 to 105, 114, 8909/ 115, 8910/115, 352, 353, 357, 377 to 380, 382, 8921/388, 390, 392, 396 to 400, 401 min, 415, 423 to 425, 616, 617, 619, 634, 635, 637 to 649, 651, 653 to 670, 672 to 685, 749 to 756, 760 to 763, 766, 769 to 771, 773	905

1	2	3	1	2	3	
to 775, 785 to 791, 793, 794, 796 min, 803, 816, 819, 820, 822, 869, 870, 905, 906, 908 min, 913, 1120, 1131, 1132, 1145, 1150, 1151, 1167, 8938/1183 to 8943/1183, 1194 to 1211, 1213 to 1279, 1282, to 1308, 1365 to 1378, 1382 to 1410, 1413 to 1442, 1444, 1450, 1453 to 1455, 8960/1458, 8961/1458, 1459 to 1461, 1463, 1466, 1471, 1477 to 1479, 1481, 8962/1482 to 8965/1482, 8966/1485 to 8073/ 1486, 1487, 1489, 1490, 8654/ 1493, 1494, 1504 to 1511, 1580, 1643, 8665/1644, 8666/1644, 1648 to 1653, 1681 to 1706, 1708 to 1712, 1714 to 8982/1716, 1720, 1722 to 1744, 1746 to 1763, 8065/1794, 8966/1794, 1795, 1797 to 1800, 1812 to 1816, 1820, 1821, 1826 to 1829, 1834, 1835 1846 to 1849, 1853, 1855 to 1866, 9003/1867 to 9008/1867, 1891 to 1911, 1918 to 9048/1938, 9049/1942 to 9052/ 1942, 1948, 1949 to 1961, 1964, 1966, 9064/1974 to 9066/1974, 1980, 1981, 1984 to 1991, 2001 to 2022 9070/2023, 8086/2024, 8087/ 2024, 2025, 2029 to 2034, 2038, 2041 to 2043, 9072/2045, 2046, 2048 to 2069, 2071 to 2073, 9078/2074 to 9081/2074, 9084/2112, 9085/2112, 2113, 2114, 9087/2159 to 9089/2159, 2160 to 2173, 9091/ 2174, 2224 to 2227, 2230, 2241, 2243 to 2245, 9093/2246, 9094/2246, 9095/2254, 2255 to 2293, 2295, 2296, 2298 to 2305, 2307, 2309 to 2338, 2340 to 2373, 2375 to 3378, 2380 to 2384 2386 to 2399, 2303 to 2411, 9112/2855 to 9114/2855, 2856 to 2858, 9118/2895, 9119/2895, 2896 to 2898, 2943 to 2947, 8470/2959, 8471/2959, 2960, 2963 to 2965, 3076, 9134/3077 to 9137/3077, 3087, 9138/ 3088, 9139/3088, 9144/3105, 9145/ 3105, 3106 to 3108, 3120, 3121, 3125 to 3128, 9177/3614, 9179/ 3614, 3615, 3616 3617, 9180/ 3619, 9182/3619, 9183/3620, 9185/ 3620, 9186/3677 to 9188/3677, 3678, 9189/3679, 9191/3679, 9192/3679, 9194/3680, 9195/3681, 9197/3681 to 9201/3681, 9203/3682, 9205/3683 to 9208/3683, 3698, 9209/3699 to 9211/3699, 3705, 3734 to 3737, 9222/ 3739, 3749, 9229/3754, 9230/3754, 3755 to 3759, 3765, 3779, 3792, 9231/3794 to 9233/3794, 3797 to 3800, 3804 to 3817, 9240/3819 to 9248/3819, 9249/3837 to 9252/3837, 3838 to 3846, 3850 to 3858, 3861 to 3869, 3875 to 9270/3879, 3882, 3883, 3974, 3975, 3977, 3979 to 3985, 9275/4013 to 9277/4013, 9296/4104, 9297/4104, 9298/4105, 9299/4105, 4105/1, 4106, 4107 min, 4108, 4109, 4112, 4113, 4115, 4116, 9301/4117, 9303/4118, 9304/4118, 4119, 4120,			9305/4121, 9307/4121, 9308/4121, 9318/4215 to 9323/4216, 9325/4216, 9326/4217/1, 9328/4217/1 to 9332/ 4217/2, 7368 and 7369.			
			MADANPUR	Khasra Nos. 1 to 76, 78 to 165, 3287/ H.B. No. 456. 382 166, 167 to 207, 210 to 212, 277, 326, 340, 377 to 384, 511 to 531, 2856/ 628 to 2860/628, 629 to 642, 647 to 655, 670 to 672, 3140/673 to 3146/ 673, 762, 802 to 808, 821, 2426/835 to 836, 838 to 848/1, 3102/851 to 3104/ 851, 853 910, 3318 to 3336/911, 3363/ 1090 to 3365/1090, 1091 min, 2376/ 1093 to 2379/1093, 1913 to 1917, 1920 to 1928, 1930 to 1932, 1933/1, 1976 to 1981, 1983 to 2702/1985, 3471/1991 to 3474/1991, 1992 to 2000, 2091, 2101 to 2104, 3496/ 2106 to 3502/2106, 2108 to 2113, 2145 to 2147, 2198, 3167/2222 to 2224, 2234, 2734/2245 to 2247, 2367/2249 to 2369/2249, 2511 to 2513/2250 min and 2252.		
			DILWAN	Khasra Nos. 1/16-22 to 25, 2/18-19 H.B. No. 171. to 24/1, 8/4-5-8-9-11-12, 7/1/1, 9/12 to 15.	15	
			KUNGRAT	Khasra Nos. 333, 423, 547/1, 548, 1000 H.B. No. 527 553 to 570, 585 to 587, 600, 876, 877, 1246, 1250, 1251, 3348, 4824, 4829, 4879, 4880, 4883, 4889, 4890, 5401, 5415, 5424, 5425, 5432, 5499, 5521, 5525, 5529, 5530, 7001, 7003, 7008, 7016, 7017, 7021, 7022, 7023, 7027, 7028, 7030 to 7033, 7038, 7043 to 7045, 7054 to 7058, 7065, 7069 to 7076, 7094, 7095, 7098, 7107 to 7109, 7122, 7125 to 7127, 7131 to 7149, 7160 to 7168, 7171, 7173, 7177, 7185/1, 7185/2, 7186, 7201, 7212, 7215, 7216, 7223, 7228, 7230 to 7240, 7244, 7254/1, 7254/2 7255 to 7259, 7373, 7401 to 7404/1, 7408, 7410/1, 7410/2, 7411 to 7418, 7420 to 7426, 7432, 7433, 7441 to 7457, 7470, 12678/7603 to 7607, 7653, 7654, 7656, 7671 to 7675, 7682 to 7684, 7689, 7704 to 7719, 7721 to 7723, 7733 to 7750, 7753, 8043, 8047 to 11005/8057/1, 8058, 8080 to 8086, 8257 to 8261, 8263 to 8266, 8398, 8445, 8448, 8466 to 8477/3, 8480 to 8483, 8501 8502, 8509/1, 8723, 8727, 8929 to 8954, 9051 to 9053, 9057 to 9067, 9072 to 9077, 9079, 9080, 9174, 9203, 9204, 9320, 9321, 9326 to 9328, 9374, 9375, 9400, 9401, 9404 to 9415 9418 to 9441, 9448 to 9451, 9459 to 9471, 9475, 9484 to 11477/ 9498/1, 9499 to 9547, 9549, 9552 to 9565, 9569 to 9572, 9575, 9589, 9603 to 9605, 9681 to 9686, 9688 to 9696, 9698 to 9705, 9707 to 9744, 9746 to 11491/9753, 9756, 9757, 9777 to 9784, 9787, 9799,		

1	2	3
SIKRI	9800, 9833 to 9836, 9848, 9859 to 9862, 10170 to 10181 and 10184.	84
H.B. No. 6.	Khasra Nos. 1 to 7, 40 to 43, 50, 53 to 55, 59, 60, 170/79 and 171/79.	
DHAR	Khasra Nos. 1 to 8, 433 to 436 and	30
GUJRAN	438.	
H.B. No. 100.		
CHOTEHR	Khasra Nos. 1 to 24, 27, 35, 37, 50/1,	124
BEHR H.B.	59 to 61, 63, 65 to 68.	
	No. 108.	

P. K. MATTOO,  
Secretary.

### HEALTH AND FAMILY PLANNING DEPARTMENT

#### CORRIGENDUM

Simla-2, the 15th January, 1971

No. 1-103/69-H&FP.—In this Government notification of even number, dated the 7th October, 1970, the words "Ayurvedic Pharmacy, Jogindernagar" may be

read as "Institute of research in I.S.N., Jogindernagar" appearing in 4th line of the said notification.

S. L. TALWAR,  
Under Secretary.

#### MEDICAL DEPARTMENT NOTIFICATION

Simla-4, the 7th April, 1969

No. 7-6/67-Med. II.—Lieutenant Governor, Himachal Pradesh is pleased to constitute a Branch of the Hind Kusht Nivaran Sangh under his patronage with headquarters at Simla comprising of the following:

(i) Health Minister	President
(ii) Deputy Health Minister	Chairman
(iii) Shri Arjan Singh, MLA, Nalagarh	Member
(iv) Mrs. Chaudhri Hari Ram Dharamsala	Member
(v) Director Health Services	Member
(vi) Asstt. Director Health Services (Public Health).	Member-Secretary-cum-Treasurer.

By order,  
KRISHAN SWARUP,  
Secretary.

### भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और ज़िला बैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि

#### उद्योग विभाग अधिसूचनाएं फार्म 'ज'

पंजाब राज्य उद्योग सहायता अधिनियम, 1935 की धारा 24 के  
अधीन घोषणा

केलोंग, 8 जनवरी, 1971

संख्या डी०.एल०-२-२-जवकि पंजाब राज्य उद्योग सहायता अधिनियम, 1935 की धारा 23 के अधीन 28-२-१९७० को नोटिस दिया गया था, जिसमें उक्त Shri Tashi Dorjai s/o Pama Tandup, resident of village Rape, Kothi Jobrang, Tehsil Lahaul, District Lahaul and Spiti at Keylong को 666.00 रु की राशि 3 प्रतिशत वार्षिक व्याज दर सहित 7-१-२-६९ से अन्तिम अदायगी की तिथि तक मन्त्र अदा करने के लिए कहा गया था, और चूंकि समस्त उक्त राशि अदा नहीं की गई है, इसलिये मैं घोषणा करता हूँ कि 667 रु की राशि 7-१-२-६९ से अन्तिम अदायगी की तिथि तक 7½ प्रतिशत वार्षिक व्याज दर सहित उक्त श्री टशी दोरजे से देय है और संलग्न मन्त्रसूचि में निर्दिष्ट सम्पत्ति में उक्त कर्जे की पूर्ति की जा सकती है।

#### SCHEDULE

All the assets presented and to be hereinafter acquired by the mortgagor whether the assets now or in future in his home including book debts, stocks, the premises and machinery existing or to be purchased with the aid of loan or part thereof and credit worthiness certificate issued by the Block Development Officer, Lahaul.

Sd/-

District Industries Officer,  
Lahaul and Spiti at Keylong.

फार्म 'ज'

पंजाब राज्य उद्योग सहायता अधिनियम, 1935 की धारा 24 के  
अधीन घोषणा

केलोंग, 8 जनवरी, 1971

संख्या डी०.एल०-२-२-जवकि पंजाब राज्य उद्योग सहायता अधिनियम,

1935 की धारा 23 के अधीन 25-२-१९६९ को नोटिस दिया गया था, जिसमें उक्त Shri Tashi Dorjai s/o Pama Tandup, resident of village Rape, Kothi Jobrang, Tehsil Lahaul, District Lahaul and Spiti at Keylong को 666.00 रु की राशि 3 प्रतिशत वार्षिक व्याज दर सहित 19-१-२-७० से अन्तिम अदायगी की तिथि तक मुझे अदा अरने के लिए कहा गया था, और चूंकि समस्त उक्त राशि अदा नहीं की गई है, इसलिये मैं घोषणा करता हूँ कि 1334.00 रु की राशि 19-१-२-७० से अन्तिम अदायगी की तिथि तक 7-१/२ प्रतिशत वार्षिक व्याज दर सहित उक्त श्री टशी दोरजे से देय है और संलग्न अनुसूचि में निर्दिष्ट सम्पत्ति से उक्त कर्जे की पूर्ति की जा सकती है।

#### SCHEDULE

All the assets presented and to be hereinafter acquired by the mortgagor whether the assets now or in future in his home including book debts, stocks, the premises and machinery existing or to be purchased with the aid of loan or part thereof and credit worthiness certificate issued by the Block Development Officer, Lahaul.

Sd/-

District Industries Officer, Keylong.

फार्म 'ज'

पंजाब राज्य उद्योग सहायता अधिनियम, 1935 की धारा 24 के  
अधीन घोषणा

केलोंग, 8 जनवरी, 1971

संख्या डी०.एल०-१०१—जवकि पंजाब राज्य उद्योग सहायता अधिनियम 1935 की धारा 23 के अधीन 27-६-१९७० को नोटिस दिया गया, जिस में उक्त Shri Chherring Gatuk s/o Dorjai Tandup, village Poh, P. O. Poh, Tehsil Spiti, District Lahaul and Spiti को 666 रु की राशि 5 प्रतिशत वार्षिक व्याज दर सहित 26-५-१९७० से अन्तिम अदायगी की

तिथि तक मुझे अदा करने के लिए कहा गया था, और चुंकि ममसन उक्त राशि अदा नहीं की गई है, इसलिये मैं बोपणा करना हूँ कि 2000 रु का राशि 26-5-1970 से अन्तिम अदायगी की तिथि तक 7-1/2 प्रतिशत व्याज दर महित उक्त श्री छेरिंग मटुक में देय है और संलग्न अनुमूलि में निर्णित सम्पत्ति में उक्त कर्जे की पूर्ति की जा सकती है।

## SCHEDULE

All the assets presented and to be hereinafter acquired by the mortgagor whether the assets now or in future in his home including book debts, stocks, the premises and machinery existing or to be purchased with the aid of loan or part the eof and land Khata No. 8, Khatuani No. 8, measuring 47 Bighas and 15 Biswas.

Sd/-

District Industries Officer, Keylong.

**भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रत्यर समिति के विवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनेंशल कमिशनर तथा कमिशनर आफ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि**

शून्य

**भाग 4—स्थानीय स्वायत शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफिकेशन और टाउन एसिया तथा पंचायत विभाग**

शून्य

**भाग 5—वेश्वितक अधिसूचनाएं और विज्ञापन**

**IN THE COURT OF SHRI R. N. AGGARWAL  
DISTRICT JUDGE, SIMLA**

C. A. No. 64-Sir/13 of 1969

Shri Babu Ram, Proprietor M/s Sant Lal Babu Ram, Shop-keeper, resident of Dadahu, Tehsil Renuka, District Sirmur.

Apellant.

Versus

1. M/s Hariom Parkash Jaimani, Timber Merchants, Yamuna Nagar. 2. Shri Bal Krishan Lakhra, resident of Mohalla Lakhni Bag, Dehradun.

Respondents.

To  
1. Shri Bal Krishan Lakhra, resident of Mohalla Lakhni Bag, Dehradun, U. P.

Whereas it has been proved to the best satisfaction of the court that the above-named respondent cannot be served in an ordinary way. Hence substituted service is ordered against him. He is directed to appear in this court on 10-3-71 at 10 a.m. at Nahan Circuit personally or through an authorised agent or pleader, otherwise ex parte proceedings shall be ordered against him.

Given under my hand and the seal of the court this 27th day of January, 1971.

Seal.

R. N. AGGARWAL,  
District Judge,  
Simla.

व अदालत सीनियर सब-जज, जिला कांगड़ा

मकाम धर्मसाला

दरखास्त जानशीनी नं 0 1 बाबत साल 1971

बमुकद्दमा श्री मुतन्तरा कुमार अर्तीक पुत्र श्री सालिग राम पुत्र श्री सोहन लाल, महाजन, निवासी नूरपुर, तहसील नूरपुर, जिला कांगड़ा. बाबत जमाशुदा रुपया मुद्रित 3750 रु 36 पैसे।

वनाम

सायल।

सर्व जनना।

दरखास्त बराये हमूल सरटिकिकेट जानशीनी नरका मतवक्फी श्री सालिग राम पुत्र श्री सोहन लाल, महाजन, निवासी नूरपुर, तहसील नूरपुर, जिला कांगड़ा. बाबत जमाशुदा रुपया मुद्रित 3750 रु 36 पैसे।

मर्टेट बैंक आफ पट्याला, नूरपुर।

वनाम: सर्व जनना।

मुकद्दमा मुन्दर्जा उनवान बाला में सायल श्री मुतन्तरा कुमार अर्तीक ने दरखास्त बराये हमूल सरटिकिकेट जानशीनी मतवक्फी श्री सालिग राम पुत्र सोहन लाल, महाजन, निवासी नूरपुर, तहसील नूरपुर, जिला कांगड़ा अदालत हजा में गुजारी है। लिहाजा इस निवित इश्तहार द्वारा हर खाम व आम आदमी को सूचित किया जाता है कि अगर कोई उजर इस दरखास्त की निवात किसी आदमी को हो तो वह तिथि 27-2-71 को प्रातः 10 बजे हाजर अदालत हजा आ कर पेश करे वसूरत दीगर कारवाई जावना अमन में लाई जावेगी।

आज तिथि 23-1-71 मेरे हस्ताक्षर व मोहर अदालत मे जारी किया गया।

मोहर

र 0 पन 0 सोनी,  
सीनियर सब-जज,  
जिला कांगड़ा।

इश्तहार

Under Order 5, Rule 20, C. P. C.

व अदालत श्री ओ० पी० शर्मा, सब-जज, तृतीय श्रेणी, उन्ना, जिला कांगड़ा (हिमाचल प्रदेश)।

नं० मुकद्दमा 250.68

श्री करतार सिंह उक्त तारा सिंह सुपुत्र श्री हजूरा चिह्न, जाति अरोड़ा, वासी उन्ना खास, थाना उन्ना तहसील उन्ना, जिला कांगड़ा।

मुद्रित।

## वनाम

श्री नाम मिह मुमुक्षु श्री वेला मिह, जानि मुरेडा, मकना रामपुर, वाना उन्ना : नहमील उन्ना । 2. श्री त्रिलोक मिह, मुमुक्षु श्री वबशीय मिह, जानि अरोडा, मकना उन्ना, वाना व तहमील उन्ना ।

उष्टुहार अम्बवार वनाम 1. श्री नाम मिह मुमुक्षु श्री वेला मिह जानि मुरेडा, वासी रामपुर, वाना उन्ना, तहमील उन्ना । 2. श्री त्रिलोक मिह, मुमुक्षु श्री वबशीय मिह, जानि अरोडा, मकना उन्ना, वाना व तहमील उन्ना

मुदालय ।

(दाता दिलावाने मुद्दिम 312 मध्ये 50 दैवे)

उपरोक्त मकदना वाला मे मुदालय को कई बार समान जारी

किरे गये मगर रिपोर्ट यांती रही कि मुदालय नं 0 1 व 2 वर पर नहीं मिलते । अब अदालत हजा को अच्छी तरह से यकीन हो चुका है कि मुदालय की तामील आसान तरीके मे नहीं हो सकती इस लिये अब इस्तहार अब्दवार जारी किया जाता है कि मुशलय 29-3-71 को हाजिर अदालत आ कर पैरवी मुकदमा करें वरना आपके खिलाफ कार्रवाइ यक्तरका अमल मे लाई जावेगी ।

आज वतारीव 16-1-71 को मेरे हस्ताधार व मोहर अदालत मे जारी किया गया है ।

ओ० पी० शर्मा,  
मव-जज, उन्ना ।

## भाग ८—भारतीय राजपत्र इत्यादि मे से पुनः प्रकाशन

(देविये पृष्ठ 185 से 218 तक)

भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

ग्रन्थ

## अनपूरक

शून्य

## PART VI

### LAW DEPARTMENT NOTIFICATION

Simla-4, the 10th January, 1963

No. 1-18/62-LR.—The following Acts recently passed by the Parliament of India and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 14th December, 15th December, 17th December and 20th December, 1962 respectively are hereby published in the Himachal Pradesh Administration Rajpatra for the information of general public.

1. The Customs Act, 1962 (No. 52 of 1962).
2. The Gift-Tax (Amendment) Act, 1962 (No. 53 of 1962).
3. The Taxation Laws (Amendment) Act, 1962 (No. 54 of 1962).
4. The Manipur (Sales of Motor Spirit and Lubricants) Taxation Act, 1962 (No. 55 of 1962).
5. The State Associated Banks (Miscellaneous Provisions) Act, 1962 (No. 56 of 1962).
6. The Delhi Motor Vehicles Taxation Act, 1962 (No. 57 of 1962).
7. The Warehousing Corporations Act, 1962 (No. 58 of 1962).

S. R. MAHANTAN,  
Under Secretary (Judicial).

Assented to on 13-12-1962.

### THE CUSTOMS ACT, 1962 (ACT NO. 52 OF 1962)

AN  
ACT

to consolidate and amend the law relating to customs.  
Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

#### CHAPTER I PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Customs Act, 1962.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (1) “aircraft” has the same meaning as in the Aircraft Act, 1934 (22 of 1934);
- (2) “assessment” includes provisional assessment, re-assessment and any order of assessment in which the duty assessed is nil;
- (3) “baggage” includes unaccompanied baggage but does not include motor vehicles;
- (4) “bill of entry” means a bill of entry referred to in section 46;
- (5) “bill of export” means a bill of export referred to in section 50;
- (6) “Board” means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (4 of 1924);
- (7) “coastal goods” means goods, other than imported goods, transported in a vessel from one port in India to another;
- (8) “Collector of Customs” includes an Additional Collector of Customs;
- (9) “conveyance” includes a vessel, an aircraft and a vehicle;
- (10) “customs airport” means any airport appointed under clause (a) of section 7 to be a customs airport;
- (11) “customs area” means the area of a customs station and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities;
- (12) “customs port” means any port appointed under clause (a) of section 7 to be a customs port;
- (13) “customs station” means any customs port, customs airport or land customs station;
- (14) “dutiable goods” means any goods which are chargeable to duty and on which duty has not been paid;
- (15) “duty” means a duty of customs leviable under this Act;
- (16) “entry” in relation to goods means an entry made in a bill of entry, shipping bill or bill of export and includes in the case of goods imported or to be exported by post, the entry referred to in section 82 or the entry made under the regulations made under section 84;
- (17) “examination” in relation to any goods, includes measurement and weighment thereof;
- (18) “export”, with its grammatical variations and cognate expressions, means taking out of India to a place outside India;
- (19) “export goods” means any goods which are to be taken out of India to a place outside India;
- (20) “exporter”, in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner or any person holding himself out to be the exporter;
- (21) “foreign-going vessel or aircraft” means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not, and includes—
  - (i) any naval vessel of a foreign Government taking part in any naval exercises;
  - (ii) any vessel engaged in fishing or any other operations outside the territorial waters of India;
  - (iii) any vessel or aircraft proceeding to a place outside India for any purpose whatsoever;
- (22) “goods” includes—
  - (a) vessels, aircrafts and vehicles;
  - (b) stores;
  - (c) baggage;
  - (d) currency and negotiable instruments; and
  - (e) any other kind of moveable property;
- (23) “import”, with its grammatical variations and cognate expressions, means bringing into India from a place outside India;
- (24) “import manifest” or “import report” means the manifest or report required to be delivered under section 30;
- (25) “imported goods” means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;
- (26) “importer”, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer;
- (27) “India” includes the territorial waters of India;
- (28) “Indian customs waters” means the waters extending into the sea to a distance of twelve nautical miles measured from the appropriate base line on the coast of India and includes bay, gulf, harbour, creek or tidal river;
- (29) “land customs station” means any place appointed under clause (b) of section 7 to be a land customs station;
- (30) “market price” in relation to any goods, means the wholesale price of the goods in the ordinary course of trade in India;
- (31) “person-in-charge” means—
  - (a) in relation to a vessel, the master of the vessel;
  - (b) in relation to an aircraft, the commander or pilot-in-charge of the aircraft;
  - (c) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;
  - (d) in relation to any other conveyance, the driver or other person-in-charge of the conveyance;
- (32) “prescribed” means prescribed by regulations made under this Act;
- (33) “prohibited goods” means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;
- (34) “proper officer”, in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Board or the Collector of Customs;
- (35) “regulations” means the regulations made by the Board under any provision of this Act;
- (36) “rules” means the rules made by the Central Government under any provision of this Act;
- (37) “shipping bill” means a shipping bill referred to in section 50;
- (38) “stores” means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;
- (39) “smuggling”, in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;
- (40) “tariff value”, in relation to any goods, means the tariff value fixed in respect thereof under sub-section (2) of section 14;
- (41) “value”, in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (1) of section 14;
- (42) “vehicle” means conveyance of any kind used on land and includes a railway vehicle;
- (43) “warehouse” means a public warehouse appointed under section 57 or a private warehouse licensed under section 58;
- (44) “warehoused goods” means goods deposited in a warehouse;
- (45) “warehousing station” means a place declared as a warehousing station under section 9.

#### CHAPTER II OFFICERS OF CUSTOMS

3. *Classes of officers of customs.*—There shall be the following classes of officers of customs namely:—

- (a) Collectors of Customs;

- (b) Appellate Collectors of Customs;
- (c) Deputy Collectors of Customs;
- (d) Assistant Collectors of Customs; and
- (e) such other class of officers of customs as may be appointed for the purposes of this Act.

4. *Appointment of officers of customs.*—(1) The Central Government may appoint such persons as it thinks fit to be officers of customs.

(2) Without prejudice to the provisions of sub-section (1), the Central Government may authorise the Board, a Collector of Customs or a Deputy or Assistant Collector of Customs to appoint officers of customs below the rank of Assistant Collector of Customs.

5. *Powers of officers of customs.*—(1) Subject to such conditions and limitations as the Board may impose, an officer of customs may exercise the powers and discharge the duties conferred or imposed on him under this Act.

(2) An officer of customs may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of customs who is subordinate to him.

(3) Notwithstanding anything contained in this section, an Appellate Collector of Customs shall not exercise the powers and discharge the duties conferred or imposed on an officer of customs other than those specified in Chapter XV and section 108.

6. *Instrument of functions of Board and customs officers on certain other officers.*—The Central Government may, by notification in the Official Gazette, entrust either conditionally or unconditionally, to any officer of the Central or the State Government or a local authority any functions of the Board or any officer of customs under this Act.

### CHAPTER III

#### APPOINTMENT OF CUSTOMS PORTS, AIRPORTS, WAREHOUSING STATIONS ETC.

7. *Appointment of customs ports, airports, etc.*—The Central Government may, by notification in the Official Gazette, appoint—

- (a) the ports and airports which alone shall be customs ports or customs airports for the unloading of imported goods and the loading of export goods or any class of such goods;
- (b) the places which alone shall be land customs stations for the clearance of goods imported or to be exported by land or inland water or any class of such goods;
- (c) the routes by which alone goods or any class of goods specified in the notification may pass by land or inland water into or out of India, or to or from any land customs station from or to any land frontier;
- (d) the port which alone shall be coastal ports for the carrying on of trade in coastal goods or any class of such goods with all or any specified ports in India.

8. *Power to approve landing places and specify limits of customs area.*—The Collector of Customs may

- (a) approve proper places in any customs port or customs airport or coastal port for the unloading and loading of goods or for any class of goods;
- (b) specify the limits of any customs area.

9. *Power to declare places to be warehousing stations.*—The Board may, by notification in the Official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.

10. *Appointment of boarding stations.*—The Collector of Customs may, by notification in the Official Gazette, appoint, in or near any customs port, a boarding station for the purpose of boarding of, or disembarkation from, vessels by officers of customs.

### CHAPTER IV

#### PROHIBITIONS ON IMPORTATION AND EXPORTATION OF GOODS

11. *Power to prohibit importation or exportation of goods.*—(1) If the central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions to be fulfilled before or after clearance as may be specified in the notification, the import or export of goods of any specified description.

(2) The purposes referred to in sub-section (1) are the following:—

- (a) the maintenance of the security of India;
- (b) the maintenance of public order and standards of decency or morality;
- (c) the prevention of smuggling;
- (d) the prevention of shortage of goods of any description;
- (e) the conservation of foreign exchange and the safeguarding of balance of payments;
- (f) the prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver;
- (g) the prevention of surplus of any agricultural product or the product of fisheries;
- (h) the maintenance of standards for the classification, grading or marketing of goods in international trade;

- (i) the establishment of any industry;
- (j) the prevention of serious injury to domestic production of goods of any description;
- (h) the protection of human, animal or plant life or health;
- (l) the protection of national treasures of artistic, historic or archaeological value;
- (m) the conservation of exhaustible natural resources;
- (n) the protection of patents, trade marks and copyrights;
- (o) the prevention of deceptive practices;
- (p) the carrying on of foreign trade in any goods by the State, or by a Corporation owned or controlled by the State to the exclusion, complete or partial, of citizens of India;
- (q) the fulfilment of obligations under the Charter of the United Nations for the maintenance of international peace and security;
- (r) the implementation of any treaty, agreement or convention with any country;
- (s) the compliance of imported goods with any laws which are applicable to similar goods produced or manufactured in India;
- (t) the prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign State or is derogatory to national prestige;
- (u) the prevention of the contravention of any law for the time being in force; and
- (v) any other purpose conducive to the interests of the general public.

### CHAPTER V

#### LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES

12. *Dutiable goods.*—(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Indian Tariff Act, 1934 (32 of 1934), or any other law for the time being in force, on goods imported into, or exported from, India.

(2) The provisions of sub-section (1) shall apply in respect of—

- (a) all goods belonging to the Central Government; and
- (b) all goods belonging to the Government of a State and used for the purposes of a trade or business of any kind carried on by, or on behalf of, that Government, or of any operations connected with such trade or business;

as they apply in respect of goods not belonging to any Government.

13. *Duty on pilfered goods.*—If any imported goods are pilfered after the unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable after pilferage.

14. *Valuation of goods for purposes of assessment.*—(1) For the purposes of the Indian Tariff Act, 1934 (32 of 1934), or any other law for the time being in force whereunder a duty of customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed to be—

- (a) the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in the course of international trade, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for the sale or offer for sale;
- (b) where such price is not ascertainable, the nearest ascertainable equivalent thereof determined in accordance with the rules made in this behalf.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is satisfied that it is necessary or expedient so to do it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

15. *Date for determination of rate of duty and tariff valuation of imported goods.*—(1) The rate or duty and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force,—

- (a) in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section;
- (b) in the case of goods cleared from a warehouse under section 68, on the date on which the goods are actually removed from the warehouse;
- (c) in the case of any other goods, on the date of payment of duty.

Provided that if a bill of entry has been presented before the date of entry inwards of the vessel by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards.

(2) The provisions of this section shall not apply to baggage and goods imported by post.

16. *Date for determination of rate of duty and tariff valuation of export goods.*—(1) The rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force—

- (a) in the case of goods entered for export under section 50, on the date on which a shipping bill or a bill of export in respect of such goods is presented under that section;
- (b) in the case of any other goods, on the date of payment of duty:

Provided that if the shipping bill has been presented before the date of entry outwards of the vessel by which the goods are to be exported, the shipping bill shall be deemed to have been presented on the date of such entry outwards.

(2) The provisions of this section shall not apply to baggage and goods exported by post.

17. *Assessment of duty.*—(1) After an importer has entered any imported good under section 46 or an exporter has entered any export goods under section 50 the imported goods, or the export goods as the case may be, or such part hereof as may be necessary may, without undue delay, be examined and tested by the proper officer.

(2) After such examination and testing, the duty, if any, leviable on such goods shall, save as otherwise provided in section 85, be assessed.

(3) For the purpose of assessing duty under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any contract, broker's note, policy of insurance, catalogue or other document whereby the duty leviable on the imported goods, or export goods, as the case may be, can be ascertained, and to furnish any information required for such ascertainment which it is in his power to produce or furnish, and thereupon the importer, exporter or such other person shall produce such document and furnish such information.

(4) Notwithstanding anything contained in this section, imported goods or export goods may, prior to the examination or testing hereof, be permitted by the proper officer to be assessed to duty on the basis of the statements made in the entry relating thereto and the documents produced and the information furnished under sub-section (3); but if it is found subsequently on examination or testing of the goods or otherwise that any statement in such entry or document or any information so furnished is not true in respect of any matter relevant to the assessment, the goods may, without prejudice to any other action, be taken under this Act, be assessed to duty.

18. *Provisional assessment of duty.*—(1) Notwithstanding anything contained in this Act but without prejudice to the provisions contained in section 46—

- (a) where the proper officer is satisfied that an importer or exporter is unable to produce any document or furnish any information necessary for the assessment of duty on the imported goods or the export goods, as the case may be; or
- (b) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test for the purpose of assessment of duty thereon; or
- (c) where the importer or the exporter has produced all the necessary documents and furnished full information for the assessment of duty but the proper officer deems it necessary to make further enquiry for assessing the duty;

the proper officer may direct that the duty leviable on such goods, by, pending the production of such documents or furnishing of such information or completion of such test or enquiry, be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty finally assessed and the duty provisionally assessed.

(2) When the duty leviable on such goods is assessed finally in accordance with the provisions of this Act, then—

- (a) in the case of goods cleared for home consumption or exportation, the amount paid shall be adjusted against the duty finally assessed and if the amount so paid falls short of, or is in excess of, the finally assessed, the importer or the exporter of the goods shall pay the deficiency or be entitled to a refund, as the case may be;
- (b) in the case of warehoused goods, the proper officer may, where the duty finally assessed is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty.

19. *Determination of duty where goods consist of articles liable to different rates of duty.*—Except as otherwise provided in any law in force, where goods consist of a set of articles, they shall be calculated as follows:—

- (a) articles liable to duty with reference to quantity shall be chargeable to that duty;

- (b) articles liable to duty with reference to value shall, if they are liable to duty at the same rate, be chargeable to duty at that rate, and if they are liable to duty at different rates, be chargeable to duty at the highest of such rates;
- (c) articles not liable to duty shall be chargeable to duty at the rate at which articles liable to duty with reference to value are liable under clause (b):

Provided that,—

- (a) accessories of, and spare parts or maintenance and repairing implements for, any article which satisfy the conditions specified in the rules made in this behalf shall be chargeable at the same rate of duty as that article;
- (b) if the importer produces evidence to the satisfaction of the proper officer regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.

20. *Re-importation of goods produced or manufactured in India.*—

- (1) If goods produced or manufactured in India be imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value not so produced or manufactured are liable or subject, on the importation thereof:

Provided that if such importation takes place within three years after the exportation of such goods and it is shown to the satisfaction of the Assistant Collector of Customs that the goods are the same which were exported, the goods may be admitted—

- (a) in any case where at the time of exportation of the goods, drawback of any customs or excise duty levied by the Union or both was allowed, on payment of customs duty equal to the amount of such drawback;
- (b) in any case where at the time of exportation of the goods, drawback of any excise duty levied by a State was allowed, on payment of customs duty equal to such excise duty leviable at the time and place of importation of the goods;
- (c) in any case where the goods were exported in bond, without payment of—
  - (i) the customs duty leviable on the imported materials, if any, used in the manufacture of the goods, or
  - (ii) the excise duty leviable on the indigenous materials, if any, used in the manufacture of the goods, or
  - (iii) the excise duty, if any, leviable on the goods; on payment of customs duty equal to the aggregate amount of all such duties calculated at the rates prevailing at the time and place of importation of the goods;
- (d) in any other case, without payment of duty.

- (2) For the purposes of this section goods shall be deemed to have been produced or manufactured in India, if at least twenty-five per cent of the total cost of production or manufacture of the goods has been incurred in India.

21. *Goods derelict, wreck, etc.*—All goods, derelict, jetsam, flotsam and wreck brought or coming into India, shall be dealt with as if they were imported into India, unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act.

22. *Abatement of duty on damaged or deteriorated goods.*—(1) Where it is shown to the satisfaction of the Assistant Collector of Customs—

- (a) that any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India; or
- (b) that any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination under section 17, on account of any accident not due to any wilful act, negligence or default of the importer, his employee or agent; or
- (c) that any warehoused goods had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act, negligence or default of the owner, his employee or agent, such goods shall be chargeable to duty in accordance with the provisions of sub-section (2).

- (2) The duty to be charged on the goods referred to in sub-section (1) shall bear the same proportion to the duty chargeable on the goods before the damage or deterioration which the value of the damaged or deteriorated goods bears to the value of the goods before the damage or deterioration.

(3) For the purposes of this section, the value of damaged or deteriorated goods may be ascertained by either of the following methods at the option of the owner:—

- (a) the value of such goods may be ascertained by the proper officer, or
- (b) such goods may be sold by the proper officer by public auction or by tender, or with the consent of the owner in any other manner, and the gross sale proceeds shall be deemed to be the value of such goods.

**23. Remission of duty on lost, destroyed or abandoned goods.**—(1) Where it is shown to the satisfaction of the Assistant Collector of Customs that any imported goods have been lost or destroyed, at any time before clearance for home consumption, the Assistant Collector of Customs shall remit the duty on such goods.

(2) The owner of any imported goods may at any time before an order for clearance of the goods for home consumption has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.

**24. Power to make rule for denaturing or mutilation of goods.**—The Central Government may make rules for premitting at the request of the owner the denaturing or mutilation of imported goods which are ordinarily used for more than one purpose so as to render them unfit for one or more of such purposes; and where any goods are so denatured or mutilated they shall be chargeable to duty at such rate as would be applicable if the goods had been imported in the denatured or mutilated form.

**25. Power to grant exemption from duty.**—(1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon.

(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods on which duty is leviable.

**26. Refund of export duty in certain cases.**—Where on the exportation of any goods any duty has been paid, such duty shall be refunded to the person by whom or on whose behalf it was paid, if—

- the goods are returned to such person otherwise than by way of re-sale;
- the goods are re-imported within one year from the date of exportation; and
- an application for refund of such duty is made before the expiry of six months from the date on which the proper officer makes an order for the clearance of the goods.

**27. Claim for refund of duty.**—(1) Any person claiming refund of any duty paid by him in pursuance of an order of assessment made by an officer of customs lower in rank than an Assistant Collector of Customs may make an application for refund of such duty to the Assistant Collector of Customs before the expiry of six months from the date of payment of duty:

Provided that the limitation of six months shall not apply where any duty has been paid under protest.

**Explanation.** Where any duty is paid provisionally under section 18, the period of six months shall be computed from the date of adjustment of duty after the final assessment thereof.

(2) If on receipt of any such application the Assistant Collector of Customs is satisfied that the whole or any part of the duty paid by the applicant should be refunded to him, he may make an order accordingly.

(3) Where, as a result of any order passed in appeal or revision under this Act, refund of any duty becomes due to any person, the proper officer may refund the amount to such person without his having to make any claim in that behalf.

(4) Save as provided in section 26, no claim for refund of any duty shall be entertained except in accordance with the provisions of this section.

**28. Notice for payment of duties not levied, short-levied or erroneously refunded.** (1) When any duty has not been levied or has been short-levied or erroneously refunded, the proper officer may, within six months from the relevant date, serve notice on the person chargeable with the duty which has not been levied or which has been so short-levied or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:

Provided that where any duty has not been levied or has been short-levied or has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter, the provisions of this sub-section shall have effect as if for the words "six months" the words "five years" were substituted.

(2) The Assistant Collector of Customs, after considering the representation, if any, made by the person on whom notice is served under sub-section (1) shall determine the amount of duty due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(3) For the purposes of sub-section (1), the expression "relevant date" means

- in a case where duty is not levied, the date on which the proper officer makes an order for the clearance of the goods;

- in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof;
- in a case where duty has been erroneously refunded, the date of refund;
- in any other case, the date of payment of duty.

## CHAPTER VI

### PROVISIONS RELATING TO CONVEYANCES CARRYING IMPORTED OR EXPORTED GOODS

**29. Arrival of vessels and aircrafts in India.**—(1) The person-in-charge of a vessel or an aircraft entering India from any place outside India shall not cause or permit the vessel or aircraft to call or land—

- for the first time after arrival in India; or
- at any time while it is carrying passengers or cargo brought in that vessel or aircraft;

at any place other than a customs port or a customs airport, as the case may be.

(2) The provisions of sub-section (1) shall not apply in relation to any vessel or aircraft which is compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a customs port or customs airport but the person-in-charge of any such vessel or aircraft—

- shall immediately report the arrival of the vessel or the landing of the aircraft to the nearest customs officer or the officer-in-charge of a police station and shall on demand produce to him the log book belonging to the vessel or the aircraft;
- shall not without the consent of any such officer permit any goods carried in the vessel or the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the vessel or the aircraft; and
- shall comply with any directions given by any such officer with respect to any such goods,

and no passenger or member of the crew shall, without the consent of any such officer, leave the immediate vicinity of the vessel or the aircraft:

Provided that nothing in this section shall prohibit the departure of any crew or passengers from the vicinity of, or the removal of goods from, the vessel or aircraft where the departure or removal is necessary for reasons of health, safety or the preservation of life or property.

**30. Delivery of import manifest or import report.**—(1) The person-in-charge of a conveyance carrying imported goods shall, within twenty-four hours after arrival thereof at a customs station, deliver to the proper officer, in the case of a vessel or aircraft, an import manifest, and in the case of a vehicle, an import report, in the prescribed form:

Provided that,—

- in the case of a vessel any such manifest may be delivered to the proper officer before the arrival of the vessel;
- if the proper officer is satisfied that there was sufficient cause for not delivering the import manifest or import report or any part thereof within twenty-four hours after the arrival of the conveyance, he may accept it at any time thereafter.

2. The person delivering the import manifest or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

3. If the proper officer is satisfied that the import manifest or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented.

**31. Imported goods not to be unloaded from vessel until entry inwards granted.**—(1) The master of a vessel shall not permit the unloading of any imported goods until an order has been given by the proper officer granting entry inwards to such vessel.

(2) No order under sub-section (1) shall be given until an import manifest has been delivered or the proper officer is satisfied that there was sufficient cause for not delivering it.

(3) Nothing in this section shall apply to the unloading of baggage accompanying a passenger or a member of the crew, mail bags, animals, perishable goods and hazardous goods.

**32. Imported goods not to be un-loaded un-less mentioned in import manifest or import report.**—No imported goods required to be mentioned under the regulations in an import manifest or import report shall, except with the permission of the proper officer, be unloaded at any customs station unless they are specified in such manifest or report for being unloaded at the customs station.

**33. Unloading and loading of goods at approved places only.**—Except with the permission of the proper officer, no imported goods shall be unloaded, and no export goods shall be loaded, at any place other than a place approved under clause (a) of section 8 for the unloading or loading of such goods.

4. *Goods not to be unloaded or loaded except under supervision of customs officer.*—Imported goods shall not be unloaded from, and export goods shall not be loaded on, any conveyance except under the supervision of the proper officer:

Provided that the Board may, by notification in the Official Gazette, give general permission and the proper officer may in any particular case give special permission, for any goods or class of goods to be loaded or loaded without the supervision of the proper officer.

5. *Restrictions on goods being water-borne.*—No imported goods shall be water-borne for being landed from any vessel, and no export goods which are not accompanied by a shipping bill, shall be water-borne for being shipped, unless the goods are accompanied by a boat-note in the prescribed form:

Provided that the Board may, by notification in the Official Gazette, give general permission, and the proper officer may in any particular case give special permission, for any goods or any class of goods to be water-borne without being accompanied by a boat-note.

6. *Restrictions on unloading and loading of goods on holidays.*—No imported goods shall be unloaded from, and no export goods shall be loaded on, any conveyance on any Sunday or on any other day observed by the Customs Department or on any other day other than the working hours, except after giving the prescribed notice and payment of the prescribed fees, if any:

Provided that no fees shall be levied for the unloading and loading of baggage accompanying a passenger or a member of the crew, and mail bags.

7. *Power to board conveyances.*—The proper officer may, at any time, board any conveyance carrying imported goods or export goods and may remain on such conveyance for such period as he considers necessary.

8. *Power to require production of documents and ask questions.*—For the purposes of carrying out the provisions of this Act, the proper officer may require the person-in-charge of any conveyance or vessel carrying imported goods or export goods to produce any document and to answer any questions and thereupon such person shall produce such documents and answer such questions.

9. *Export goods not to be loaded on vessel until entry-outwards certified.*—The master of a vessel shall not permit the loading of any export goods, other than baggage and mail bags, until an order has been given by the proper officer granting entry-outwards to such vessel.

10. *Export goods not to be loaded unless duly passed by proper officer.*—The person-in-charge of a conveyance shall not permit the loading of any export goods, other than baggage and mail bags, until at a customs station—

(a) of export goods, other than baggage and mail bags, unless a shipping bill or bill of export or a bill of transhipment, as the case may be, duly passed by the proper officer, has been handed over to him by the exporter;

(b) of baggage and mail bags, unless their export has been duly permitted by the proper officer.

11. *Delivery of export manifest or export report.*—(1) The person-in-charge of a conveyance carrying export goods shall, before departure of the conveyance from a customs station, deliver the proper officer in the case of a vessel or aircraft, an export manifest, and in the case of a vehicle, an export report, in the prescribed form:

Provided that if the agent of the person in charge of the conveyance furnishes such security as the proper officer deems sufficient for the delivery within seven days from the date of departure of the conveyance the export manifest or the export report, as the case may be, the proper officer may (subject to such rules as the Central Government may make in this behalf) accept such manifest or report within the aforesaid period.

(2) The person delivering the export manifest or export report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(3) If the proper officer is satisfied that the export manifest or export report is in any way incorrect or incomplete and that there is no fraudulent intention, he may permit such manifest or report to be amended or supplemented.

12. *No conveyance to leave without written order.*—(1) The person-in-charge of a conveyance which has brought any imported goods or has loaded any export goods at a customs station shall not cause or permit the conveyance to depart from that customs station until a written order to that effect has been given by the proper officer.

(2) No such order shall be given until—

(a) the person-in-charge of the conveyance has answered the questions put to him under section 38;

(b) the provisions of section 41 have been complied with;

(c) the shipping bills or bills of export, the bills of transhipment, if any, and such other documents as the proper officer may require have been delivered to him;

(d) all duties leviable on any stores consumed in such conveyance, and all charges and penalties due in respect of such conveyance or from the person-in-charge thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;

(e) the person-in-charge of the conveyance has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct;

(f) in any case where any export goods have been loaded without payment of export duty or in contravention of any provision of this Act or any other law for the time being in force relating to export of goods.—

(i) such goods have been unloaded, or

(ii) where the Assistant Collector of Customs is satisfied that it is not practicable to unload such goods, the person-in-charge of the conveyance has given an undertaking, secured by such guarantee or deposit of such amount as the proper officer may direct, for bringing back the goods to India.

43. *Exemption of certain classes of conveyances from certain provisions of this Chapter.*—(1) The provisions of sections 30, 41 and 42 shall not apply to a vehicle which carries no goods other than the luggage of its occupants.

(2) The Central Government may, by notification in the Official Gazette, exempt the following classes of conveyances from all or any of the provisions of this Chapter—

(a) conveyances belonging to the Government or any foreign Government;

(b) vessels and aircrafts which temporarily enter India by reason of any emergency.

## CHAPTER VII

### CLEARANCE OF IMPORTED GOODS AND EXPORT GOODS

44. *Chapter not to apply to baggage and postal articles.*—The provisions of this Chapter shall not apply to (a) baggage and (b) goods imported or to be exported by post.

#### Clearance of imported goods

55. *Restrictions on custody and removal of imported goods.*—(1) Save as otherwise provided in any law for the time being in force, all imported goods unloaded in a customs area shall remain in the custody of such person as may be approved by the Collector of Customs until they are cleared for home consumption or are warehoused or are transhipped in accordance with the provisions of Chapter III.

(2) The person having custody of any imported goods in a customs area, whether under the provisions of sub-section (1) or under any law for the time being in force,—

(a) shall keep a record of such goods and send a copy thereof to the proper officer;

(b) shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer.

46. *Entry of goods on importation.*—(1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting to the proper officer a bill of entry for home consumption or warehousing in the prescribed form:

Provided that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

(3) A bill of entry under sub-section (1) may be presented at any time after the delivery of the import manifest or import report as the case may be:

Provided that the Collector of Customs may in any special circumstances permit a bill of entry to be presented before the delivery of such manifest or report.

(4) The importer while presenting a bill of entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent

intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or vice-versa.

47. *Clearance of goods for home consumption.*—Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon, and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.

48. *Procedure in case of goods not cleared, warehoused, or transhipped within two months after unloading.*—If any goods brought into India from a place outside India are not cleared for home consumption or warehoused or transhipped within two months from the date of the unloading thereof at customs station or within such further time as the proper officer may allow or if the title to any imported goods, is relinquished, such goods may, after notice to the importer and with the permission of the proper officer be sold by the person having the custody thereof:

Provided that—

- (a) animals, perishable goods and hazardous goods, may, with the permission of the proper officer, be sold at any time;
- (b) arms and ammunition may be sold at such time and place and in such manner as the Central Government may direct.

*Explanation.*—In this section, "arms" and "ammunition" have the meanings respectively assigned to them in the Arms Act, 1959 (54 to 1959).

49. *Storage of imported goods in warehouse pending clearance.*—Where in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Collector or Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time, the goods may, pending clearance, be permitted to be stored in a public warehouse, or in a private warehouse if facilities for deposit in a public warehouse are not available; but such goods shall not be deemed to be warehoused goods for the purposes of this Act, and accordingly the provisions of Chapter IX shall not apply to such goods.

#### Clearance of export goods

50. *Entry of goods for exportation.*—(1) The exporter of any goods shall make entry thereof by presenting to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in the prescribed form.

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

51. *Clearance of goods for exportation.*—Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation.

#### CHAPTER VIII GOODS IN TRANSIT

52. *Chapter not to apply to baggage, postal articles and stores.*—The provisions of this Chapter shall not apply to (a) baggage, (b) goods imported by post, and (c) stores.

53. *Transit of goods in same vessel or aircraft.*—Subject to the provisions of section 11, any goods imported in a vessel or aircraft, and mentioned in the import manifest as for transit in the same vessel or aircraft to any port or airport outside India or any customs port or customs airport may be allowed to be so transhipped without payment of duty.

54. *Transhipment of goods without payment of duty.*—(1) Where any goods imported into customs port or customs airport are intended for transhipment, a bill of transhipment shall be presented to proper officer in the prescribed form.

(2) Subject to the provisions of section 11—

(a) where any goods imported into a customs port are mentioned in the import manifest as for transhipment to any port outside India, or

(b) where any goods imported into a customs airport are mentioned in the import manifest as for transhipment to any airport outside India, such goods may be allowed to be so transhipped without payment of duty.

(3) Where any goods imported into a customs port or a customs airport are mentioned in the import manifest as for transhipment—

(a) to any major port as defined in the Indian Ports Act, 1908 (15 of 1908), or the customs airport at Bombay, Calcutta, Delhi or Madras, or any other customs port or customs airport which the Board may, by notification in the Official Gazette, specify in this behalf, or

(b) to any other customs port or customs airport, and the proper officer is satisfied that the goods are *bona-fide* intended for transhipment to such customs port or airport, the proper officer may allow the goods to be transhipped, without payment of duty, subject to such conditions as may be prescribed for the due arrival of such goods at the customs port or customs airport to which transhipment is allowed.

55. *Entry, etc., of transited or transhipped goods on arrival at customs port or customs airport.*—Where any goods are allowed to be transited under section 53 or transhipped under sub-section (3) of section 45 to any customs port or customs airport, they shall, on their arrival at such port or airport, be liable to duty and shall be entered in like manner as goods are entered on the first importation thereof and the provisions of this Act and any rules and regulations shall, so far as may be, apply in relation to such goods.

56. *Transport of certain classes of goods subject to prescribed conditions.*—Imported goods may be transported without payment of duty from one land customs station to another, and any goods may be transported from one part of India to another part through any foreign territory, subject to such conditions as may be prescribed for the due arrival of such goods at the place of destination.

#### CHAPTER IX WAREHOUSING

57. *Appointing of public warehouses.*—At any warehousing station, the Assistant Collector of Customs may appoint public warehouses wherein dutiable goods may be deposited without payment of duty.

58. *Licensing of private warehouses.*—(1) At any warehousing station, the Assistant Collector of Customs may licence private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited without payment of duty.

(2) The Assistant Collector of Customs may cancel a licence granted under sub-section (1)—

- (a) by giving one months' notice in writing to the licensee; or
- (b) if the licensee has contravened any provision of this Act or the rules or regulations or committed breach of any of the conditions of the licence:

Provided that before any licence is cancelled under clause (b) the licensee shall be given a reasonable opportunity of being heard.

(3) Pending an enquiry whether a licence granted under sub-section (1) should be cancelled under clause (b) of sub-section (2), the Assistant Collector of Customs may suspend the licence.

59. *Warehousing bond.*—(1) The importer of any dutiable goods which have been entered for warehousing and assessed to duty under section 17 or section 18 shall execute a bond binding himself in a sum equal to twice the amount of the duty assessed on such goods,—

- (a) to observe all the provisions of this Act and the rules and regulations in respect of such goods;
- (b) to pay on or before a date specified in a notice of demand all duties, rent and charges claimable on account of such goods under this Act, together with interest on the same from the date so specified at the rate of six percent. per annum, or such other rate as is for the time being fixed by the Board; and
- (c) to discharge all penalties incurred for violation of the provisions of this Act and the rules and regulations in respect of such goods.

(2) For the purposes of sub-section (1), the Assistant Collector of Customs may permit an importer to enter into general bond in such amount as the Assistant Collector of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.

(3) A bond executed under this section by an importer in respect of any goods shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse:

Provided that where the whole of the goods or any part thereof are transferred to another person, the proper officer may accept fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh bond is accepted from the transferee.

60. *Permission for deposit of goods in a warehouse.*—When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse without payment of duty.

61. *Period for which goods may remain warehoused.*—Any warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed, till the expiry of three years after the date on which the proper officer made a n

er under section 60 permitting the deposit of the goods in a  
house:

provided that—

- in the case of any goods which are likely to deteriorate, the aforesaid period of three years may be reduced by the Collector of customs to such shorter period as he may deem fit;
- in the case of any goods which are not likely to deteriorate the aforesaid period of three years may, on sufficient cause being shown, be extended by the Collector of Customs for a period not exceeding one year and by the Board for such further period as it may deem fit:

provided further that when the licence for any private warehouse is cancelled, the owner of any goods warehoused therein shall, within seven days from the date on which notice of such cancellation is given or within such extended period as the proper officer may allow, remove the goods from such warehouse to another warehouse or clear them for home consumption or exportation.

**62. Control over warehoused goods.**—(1) All warehoused goods shall be subject to the control of the proper officer.

(2) No person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer.

(3) The proper officer may cause any warehouse to be locked the lock of the Customs Department and no person shall enter or break such lock.

(4) The proper officer shall have access to every part of a warehouse and power to examine the goods therein.

**63. Payment of rent and warehouse charges.**—(1) The owner of warehoused goods shall pay to the warehouse-keeper rent and warehouse charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the Collector of Customs.

(2) If any rent or warehouse charges are not paid within ten days from the date when they became due, the warehouse-keeper, after notice to the owner of the warehoused goods and with the permission of the proper officer cause to be sold (any transfer of the warehoused goods notwithstanding) such sufficient portion of the same as the warehouse-keeper may select.

**64. Owner's right to deal with warehoused goods.**—With the consent of the proper officer and on payment of the prescribed fees, owner of any goods may either before or after warehousing the same—

- inspect the goods;
- separate damaged or deteriorated goods from the rest;
- sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;
- deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;
- show the goods for sale; or
- take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples.

**65. Manufacture and other operations in relation to goods in a warehouse.**—(1) With the sanction of the Assistant Collector of Customs and subject to such conditions and on payment of such fees as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(2) Where in the course of any operations permissible in relation to warehoused goods under sub-section (1), there is any waste or refuse, the following provisions shall apply:—

(i) if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported:

provided that such waste or refuse is either destroyed or duty is paid in such waste or refuse as if it had been imported into India in that form;

(ii) if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.

**66. Power to exempt imported materials used in the manufacture of goods in warehouse.**—If any imported materials are used in accordance with the provisions of section 65 for the manufacture of any goods and the rate of duty leviable on the imported materials exceeds the rate of duty leviable on such goods, the Central Government, if satisfied that in the interests of the establishment or development of any domestic industry it is necessary so to do, may, by

notification in the Official Gazette, exempt the imported materials from the whole or part of the excess rate of duty.

**67. Removal of goods from one warehouse to another.**—The owner of any warehoused goods may, with the permission of the proper officer, remove them from one warehouse to another, without payment of duty, subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which removal is permitted.

**68. Clearance of warehoused goods for home consumption.**—The importer of any warehoused goods may clear them for home consumption if—

- a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;
- the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods have been paid; and
- an order for clearance of such goods for home consumption has been made by the proper officer.

**69. Clearance of warehoused goods for exportation.**—(1) Any warehoused goods may be exported to a place outside India without payment of import duty if—

- a shipping bill or a bill of export has been presented in respect of such goods in the prescribed form;
- the export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid; and
- an order for clearance of such goods for exportation has been made by the proper officer.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that warehoused goods of any specified description are likely to be smuggled back into India, it may by notification in the Official Gazette, direct that such goods shall not be exported to any place outside India without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification.

**70. Allowance in case of volatile goods.**—(1) When any warehoused goods to which this section applies are at the time of delivery from a warehouse found to be deficient in quantity on account of natural loss, the Assistant Collector of Customs may remit the duty on such deficiency.

(2) This section applies to such warehoused goods as the Central Government having regard to the volatility of the goods and the manner of their storage, may, by notification in the Official Gazette, specify.

**71. Goods not to be taken out of warehouse except as provided by this Act.**—No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or re-exportation, or for removal to another warehouse, or as otherwise provided by this Act.

**72. Goods improperly removed from warehouse, etc.**—(1) In any of the following cases, that is to say,—

- where any warehoused goods are removed from a warehouse in contravention of section 71;
- where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;
- where any warehoused goods have been taken under section 64 as samples without payment of duty;
- where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or exportation are not duly accounted for to the satisfaction of the proper officer;

the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with all penalties, rent, interest and other charges payable in respect of such goods.

(2) If any owner fails to pay any amount demanded under sub-section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may select.

**73. Cancellation and return of warehousing bond.**—When the whole of the goods covered by any bond executed under section 59 have been cleared for home consumption or exported or are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.

## CHAPTER X

### DRAWBACK

**74. Drawback allowable re-export of duty-paid goods.**—(1) Where any goods capable of being easily identified which have been imported

into India and upon which any duty has been paid on importation, are exported to any place outside India, ninety-eight per cent of such duty shall, except as otherwise hereinafter provided, be re-paid as drawback, if—

- (a) the goods are identified to the satisfaction of the Assistant Collector of Customs as the goods which were imported; and
- (b) the goods are entered for export within two years from the date of payment of duty on the importation thereof:

Provided that in any particular case the aforesaid period of two years may, on sufficient cause being shown, be extended by the Board by such further period as it may deem fit.

(2) Notwithstanding anything contained in sub-section (1), the rate of drawback in the case of goods which have been used after the importation thereof shall be such as the Central Government, having regard to the duration of use, depreciation in value and other relevant circumstances, may, by notification in the Official Gazette, fix.

(3) The Board may make regulations for the purpose of carrying out the provisions of this section and, in particular, such regulations may—

- (a) provide for the manner in which the identity of goods imported in different consignments which are ordinarily stored together in bulk, may be established;
- (b) specify the goods which shall be deemed to be not capable of being easily identified.

(4) For the purposes of this section—

- (a) goods shall be deemed to have been entered for export on the date with reference to which the rate of duty is calculated under section 16;
- (b) in the case of goods assessed to duty provisionally under section 18, the date of payment of the provisional duty shall be deemed to be the date of payment of duty.

75. *Drawback on imported materials used in the manufacture of goods which are exported.* (1) Where it appears to the Central Government that in respect of goods of any class or description manufactured in India and exported to any place outside India, a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the manufacture of such goods, the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (2).

(2) The Central Government may make rules for the purpose of carrying out the provisions of sub-section (1) and, in particular, such rules may provide—

- (a) for the payment of drawback equal to the amount of duty actually paid on the imported materials used in the manufacture of the goods or as is specified in the rules as the average amount of duty paid on the materials of that class or description used in the manufacture of goods of that class or description either by manufacturers generally or by any particular manufacturer;
- (b) for the production of such certificates, documents and other evidence in support of each claim of drawback as may be necessary;
- (c) for requiring the manufacturer to give access to every part of his manufactory to any officer of customs specially authorised in this behalf by the Assistant Collector of Customs to enable such authorised officer to inspect the processes of manufacture and to verify by actual check or otherwise the statements made in support of the claim for drawback.

76. *Prohibition and regulation of drawback in certain cases.* (1) Notwithstanding anything hereinbefore contained, no drawback shall be allowed—

- (a) in respect of any goods which are required under the regulations to be included in the export manifest or export report and are not so included;
- (b) in respect of any goods the market-price of which is less than the amount of drawback due thereon;
- (c) where the drawback due in respect of any goods is less than five rupees.

(2) Without prejudice to the provisions of sub-section (1), if the Central Government is of opinion that goods of any specified description in respect of which drawback may be claimed under this Chapter are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that drawback shall not be allowed in respect of such goods or may be allowed subject to such restrictions and conditions as may be specified in the notification.

## CHAPTER XI

### SPECIAL PROVISIONS REGARDING BAGGAGE, GOODS IMPORTED OR EXPORTED BY POST, AND STORES

#### *Baggage*

77. *Declaration by owner of baggage.*—The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

78. *Determination of rate of duty and tariff valuation in respect of baggage.*—The rate of duty and tariff valuation, if any, applicable to baggage shall be the rate and valuation in force on the date on which a declaration is made in respect of such baggage under section 77.

79. *Bona fide baggage exempted from duty.*—(1) The proper officer may, subject to any rules made under sub-section (2), pass free of duty—

- (a) any article in the baggage of a passenger or a member of the crew in respect of which the said officer is satisfied that it has been in his use for such minimum period as may be specified in the rules;
- (b) any article in the baggage of a passenger in respect of which the said officer is satisfied that it is for the use of the passenger or his family or is a *bona fide* gift or souvenir; provided that the value of each such article and the total value of all such articles does not exceed such limits as may be specified in the rules.

(2) The Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may specify—

- (a) the minimum period for which any article has been used by a passenger or a member of the crew for the purpose of clause (a) of sub-section (1);
- (b) the maximum value of any individual article and the maximum total value of all the articles which may be passed free of duty under clause (b) of sub-section (1);
- (c) the conditions (to be fulfilled before or after clearance) subject to which any baggage may be passed free of duty.

(3) Different rules may be made under sub-section (2) for different classes of persons.

80. *Temporary detention of baggage.*—Where the baggage of a passenger contains any article which is dutiable or the import of which is prohibited and in respect of which a true declaration has been made under section 77, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India.

81. *Regulations in respect of baggage.*—The Board may make regulations,—

- (a) providing for the manner of declaring the contents of any baggage;
- (b) providing for the custody, examination, assessment to duty and clearance of baggage;
- (c) providing for the transit or transhipment of baggage from one customs station to another or to a place outside India.

#### *Goods imported or exported by post*

82. *Label or declaration accompanying goods to be treated as entry.*—In the case of goods imported or exported by post, any label or declaration accompanying the goods, which contains the description, quantity and value thereof, shall be deemed to be an entry for import or export, as the case may be, for the purposes of this Act.

83. *Rate of duty and tariff valuation in respect of goods imported or exported by post.*—(1) The rate of duty and tariff value, if any, applicable to any goods imported by post shall be the rate and valuation in force on the date on which the postal authorities present to the proper officer a list containing the particulars of such goods for the purpose of assessing the duty thereon:

Provided that if such goods are imported by a vessel and the list of the goods containing the particulars was presented before the date of the arrival of the vessel, it shall be deemed to have been presented on the date of such arrival.

(2) The rate of duty and tariff value, if any, applicable to any goods exported by post shall be the rate and valuation in force on the date on which the exporter delivers such goods to the postal authorities for exportation.

84. *Regulations regarding goods imported or to be exported by post.*—The Board may make regulations providing for—

- (a) the form and manner in which an entry may be made in respect of any specified class of goods imported or to be exported by post, other than goods which are accompanied by a label or declaration containing the description, quantity and value thereof;
- (b) the examination, assessment to duty, and clearance of goods imported or to be exported by post;
- (c) the transit or transhipment of goods imported by post, from one customs station to another or to a place outside India.

#### *Stores*

85. *Stores may be allowed to be warehoused without assessment to duty.*—Where any imported goods are entered for warehousing and the importer makes and subscribes to a declaration that the goods

are to be supplied as stores to vessels or aircrafts without payment or import duty under this Chapter, the proper officer may permit the goods to be warehoused without the goods being assessed to duty.

86. *Transit and transhipment of stores.*—(1) Any stores imported in a vessel or aircraft may, without payment of duty remain on board such vessel or aircraft while it is in India.

(2) Any stores imported in a vessel or aircraft may, with the permission of the proper officer, be transferred to any vessel or aircraft as stores for consumption therein as provided in section 87 or section 90.

87. *Imported stores may be consumed on board a foreign-going vessel or aircraft.*—Any imported stores on board a vessel or aircraft (other than stores to which section 90 applies) may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign-going vessel or aircraft.

88. *Application of section 69 and Chapter X to stores.*—The provisions of section 69 and Chapter X shall apply to stores (other than those to which section 90 applies) as they apply to other goods, subject to the modifications that—

(a) for the words "exported to any place outside India" or the word "exported", wherever they occur, the words "taken on board any foreign-going vessel or aircraft as stores" shall be substituted;

(b) in the case of drawback on fuel and lubricating oil taken on board any foreign-going aircraft as stores, sub-section (1) of section 74 shall have effect as if for the words "ninety-eight per cent", the words "the whole" were substituted.

89. *Stores to be free of export duty.*—Goods produced or manufactured in India and required as stores on any foreign-going vessel or aircraft may be exported free of duty in such quantities as the proper officer may determine, having regard to the size of the vessel or aircraft, the number of passengers and crew and the length of the voyage or journey on which the vessel or aircraft is about to depart.

90. *Concessions in respect of imported stores for the Navy.*—(1) Imported stores specified in sub-section (3) may without payment of duty be consumed on board a ship of the Indian Navy.

(2) The provisions of section 69 and Chapter X shall apply to stores specified in sub-section (3) as they apply to other goods, subject to the modifications that—

(a) for the words "exported to any place outside India" or the word "exported" wherever they occur, the words "taken on board a ship of the Indian Navy" shall be substituted;

(b) for the words "ninety-eight per cent" in sub-section (1) of section 74, the words "the whole" shall be substituted.

(3) The stores referred to in sub-sections (1) and (2) are the following:—

(a) stores for the use of a ship of the Indian Navy;

(b) stores supplied free by the Government for the use of the crew of a ship of the Indian Navy in accordance with their conditions of service.

## CHAPTER XII

### PROVISIONS RELATING TO COASTAL GOODS AND VESSELS CARRYING COASTAL GOODS

91. *Chapter not to apply to baggage and stores.*—The provisions of this Chapter shall not apply to baggage and stores.

92. *Entry of coastal goods.*—(1) The consignor of any coastal goods shall make an entry thereof by presenting to the proper officer a bill of coastal goods in the prescribed form.

(2) Every such consignor while presenting a bill of coastal goods shall, at the foot thereof, make and subscribe to a declaration as to the truth of the contents of such bill.

93. *Coastal goods not to be loaded until bill relating thereto is passed, etc.*—The master of a vessel shall not permit the loading of any coastal goods on the vessel until a bill relating to such goods presented under section 92 has been passed by the proper officer and has been delivered to the master by the consignor.

94. *Clearance of coastal goods at destination.*—(1) The master of a vessel carrying any coastal goods shall carry on board the vessel all bills relating to such goods delivered to him under section 93 and shall, immediately on arrival of the vessel at any customs or coastal port, deliver to the proper officer of that port all bills relating to the goods which are to be unloaded at that port.

(2) Where any coastal goods are unloaded at any port, the proper officer shall permit clearance thereof if he is satisfied that they are entered in a bill of coastal goods delivered to him under sub-section (1).

95. *Master of a coasting vessel to carry an advice book.*—(1) The master of every vessel carrying coastal goods shall be supplied by the Customs authorities with a book to be called the "advice book".

(2) The proper officer at each port of call by such vessel shall make such entries in the advice book as he deems fit, relating to the goods loaded on the vessel at that port.

(3) The master of every such vessel shall carry the advice book on board the vessel and shall on arrival at each port of call deliver it to the proper officer at that port for his inspection.

96. *Loading and unloading of coastal goods at customs port or coastal port only.*—No coastal goods shall be loaded on, or unloaded from, any vessel at any port other than a customs port or a coastal port appointed under section 7 for the loading or unloading of such goods.

97. *No coasting vessel to leave without written order.*—(1) The master of a vessel which has brought or loaded any coastal goods at a customs or coastal port shall not cause or permit the vessel to depart from such port until a written order to that effect has been given by the proper officer.

(2) No such order shall be given until—

(a) the master of the vessel has answered the questions put to him under section 38;

(b) all charges and penalties due in respect of that vessel or from the master thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;

(c) the master of the vessel has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct;

(d) the provisions of this Chapter and any rules and regulations relating to coastal goods and vessels carrying coastal goods have been complied with.

98. *Application of certain provisions of this Act to coastal goods, etc.*—(1) Sections 33, 34 and 36 shall, so far as may be, apply to coastal goods as they apply to imported goods or export goods.

(2) Sections 37 and 38 shall, so far as may be, apply to vessels carrying coastal goods as they apply to vessels carrying imported goods or export goods.

(3) The Central Government may, by notification in the Official Gazette, direct that all or any of the other provisions of Chapter VI and the provisions of section 45 shall apply to coastal goods or vessel's carrying coastal goods subject to such exceptions and modifications as may be specified in the notification.

99. *Power to make rules in respect of coastal goods and coasting vessels.*—The Central Government may make rules for—

(a) preventing the taking out of India of any coastal goods the export of which is dutiable or prohibited under this Act or any other law for the time being in force;

(b) preventing, in the case of a vessel carrying coastal goods as well as imported or export goods, the substitution of imported or export goods by coastal goods.

## CHAPTER XIII

### SEARCHES, SEIZURE AND ARREST

100. *Power to search suspected persons entering or leaving India, etc.*—(1) If the proper officer has reason to believe that any person to whom this section applies has secreted about his person, any goods liable to confiscation or any documents relating thereto, he may search that person.

(2) This section applies to the following persons, namely:—

(a) any person who has landed from or is about to board or is on board any vessel within the Indian customs waters;

(b) any person who has landed from or is about to board, or is on board a foreign-going aircraft;

(c) any person who has got out of, or is about to get into, or is in, a vehicle, which has arrived from, or is to proceed to any place outside India;

(d) any person not included in clause (a), (b) or (c) who has entered or is about to leave India;

(e) any person in a customs area.

101. *Power to search suspected persons in certain other cases.*—(1) Without prejudice to the provisions of section 100, if an officer of customs empowered in this behalf by general or special order of the Collector of Customs, has reason to believe that any person has secreted about his person any goods of the description specified in sub-section (2) which are liable to confiscation, or documents relating thereto, he may search that person.

(2) The goods referred to in sub-section (1) are the following:—

(a) gold;

(b) diamonds;

(c) manufactures of gold or diamonds;

(d) watches;

(e) any other class of goods which the Central Government may, by notification in the Official Gazette, specify.

102. *Persons to be searched may require to be taken before gazetted officer of customs or magistrate.*—(1) When any officer of customs is about to search any person under the provisions of section 100 or section 101, the officer of customs shall, if such person so requires, take him without unnecessary delay to the nearest gazetted officer of customs or magistrate.

(2) If such requisition is made, the officer of customs may detain the person making it until he can bring him before the gazetted officer of customs or the magistrate.

(3) The gazetted officer of customs or the magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.

(4) Before making a search under the provisions of section 100 or section 101, the officer of customs shall call upon two or more persons to attend and witness the search and may issue an order in writing to them or any of them so to do; and the search shall be made in the presence of such persons and a list of all things seized in the course of such search shall be prepared by such officer or other person and signed by such witnesses.

(5) No female shall be searched by any one excepting a female.

103. *Power to screen or X-ray bodies or suspected persons for detecting secreted goods.*—(1) Where the proper officer has reason to believe that any person referred to in sub-section (2) of section 100 has any goods liable to confiscation secreted inside his body, he may detain such person and produce him without unnecessary delay before the nearest magistrate.

(2) A magistrate before whom any person is brought under sub-section (1) shall, if he sees no reasonable ground for believing that such person has any such goods secreted inside his body, forthwith discharge such person.

(3) Where any such magistrate has reasonable ground for believing that such person has any such goods secreted inside his body and the magistrate is satisfied that for the purpose of discovering such goods it is necessary to have the body of such person screened or X-rayed, he may make an order to that effect.

(4) Where a magistrate has made any order under sub-section (3), in relation to any person, the proper officer shall, as soon as practicable, take such person before a radiologist possessing qualifications recognized by the Central Government for the purpose of this section, and such person shall allow the radiologist to screen or X-ray his body.

(5) A radiologist before whom any person is brought under sub-section (4) shall, after screening or X-raying the body of such person, forward his report, together with any X-ray pictures taken by him, to the magistrate without unnecessary delay.

(6) Where on receipt of a report from a radiologist under sub-section (5) or otherwise, the magistrate is satisfied that any person has any goods liable to confiscation secreted inside his body, he may direct that suitable action for bringing out such goods be taken on the advice and under the supervision of a registered medical practitioner and such person shall be bound to comply with such direction:

Provided that in the case of a female no such action shall be taken except on the advice and under the supervision of a female registered medical practitioner.

(7) Where any person is brought before a magistrate under this section, such magistrate may for the purpose of enforcing the provisions of this section order such person to be kept in such custody and for such period as he may direct.

(8) Nothing in this section shall apply to any person referred to in sub-section (1), who admits that goods liable to confiscation are secreted inside his body, and who voluntarily submits himself for suitable action being taken for bringing out such goods.

*Explanation.*—For the purposes of this section, the expression "registered medical practitioner" means any person who holds a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (7 of 1916), or notified under section 3 of that Act, or by an authority specified in any of the Schedules to the Indian Medical Council Act, 1956, (102 of 1956).

104. *Power to arrest.*—(1) If an officer of customs empowered in this behalf by general or special order of the Collector of Customs has reason to believe that any person in India or within the Indian Customs waters has been guilty of an offence punishable under section 135, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested under sub-section (1) shall, without unnecessary delay, be taken to a magistrate.

(3) Where an officer of customs has arrested any person under sub-section (1), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-in-charge of a police station has and is subject to under the Code of Criminal Procedure, 1898 (5 of 1898).

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Act shall not be cognizable.

105. *Power to search premises.*—(1) If the Assistant Collector of Customs, or in any area adjoining the land frontier or the coast of India an officer of customs specially empowered by name in this behalf by the Board, has reason to believe that any goods liable to confiscation, or any documents or things which in his opinion will

be useful for or relevant to any proceeding under this Act, are secreted in any place, he may authorise any officer of customs to search or may himself search for such goods, documents or things.

(2) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words "Collector of Customs" were substituted.

106. *Power to stop and search conveyances.*—(1) Where the proper officer has reason to believe that any aircraft, vehicle or animal in India or any vessel in India or within the Indian customs waters has been, is being, or is about to be, used in the smuggling of any goods or in the carriage of any goods which have been smuggled, he may at any time stop any such vehicle, animal or vessel or, in the case of an aircraft, compel it to land, and—

- (a) rummage and search any part of the aircraft, vehicle or vessel;
- (b) examine and search any goods in the aircraft, vehicle or vessel or on the animal;
- (c) break open the lock of any door or package for exercising the powers conferred by clauses (a) and (b), if the keys are withheld.

(2) Where for the purposes of sub-section (1)—

- (a) it becomes necessary to stop any vessel or compel any aircraft to land, it shall be lawful for any vessel or aircraft in the service of the Government while flying her proper flag and any authority authorised in this behalf by the Central Government to summon such vessel to stop or the aircraft to land, by means of an international signal, code or other recognized means, and thereupon such vessel shall forthwith stop or such aircraft shall forthwith land; and if it fails to do so, chase may be given thereto by any vessel or aircraft as aforesaid and if after a gun is fired as a signal the vessel fails to stop or the aircraft fails to land, it may be fired upon;
- (b) it becomes necessary to stop any vehicle or animal, the proper officer, may use all lawful means for stopping it, and where such means fail, the vehicle or animal may be fired upon.

107. *Power to examine persons.*—Any officer of customs empowered in this behalf by general or special order of the Collector of customs may, during the course of any enquiry in connection with the smuggling of any goods,—

- (a) require any person to produce or deliver any document or thing relevant to the enquiry;
- (b) examine any person acquainted with the facts and circumstances of the case.

108. *Power to summon persons to give evidence and produce documents.*—(1) Any gazetted officer of customs shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making in connection with the smuggling of any goods.

(2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons so summoned shall be bound to attend either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents and other things as may be required:

Provided that the exemption under section 132 of the Code of Civil Procedure, 1908 (5 of 1908), shall be applicable to any requisition for attendance under this section.

(4) Every such inquiry as aforesaid shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

109. *Power to require production of order permitting clearance of goods imported by land.*—Any officer of customs appointed for any area adjoining the land frontier of India and empowered in this behalf by general or special order of the Board, may require any person in possession of any goods which such officer has reason to believe to have been imported into India by land, to produce the order made under section 47 permitting clearance of the goods:

Provided that nothing in this section shall apply to any imported goods passing from a land frontier to a land customs station by a route appointed under clause (c) of section 7.

110. *Seizure of goods, documents and things.*—(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Collector of Customs for a period not exceeding six months.

(3) The proper officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(4) The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of customs.

#### CHAPTER XIV

##### CONFISCATION OF GOODS AND CONVEYANCES AND IMPOSITION OF PENALTIES

111. *Confiscation of improperly imported goods, etc.*—The following goods brought from a place outside India shall be liable to confiscation:—

- (a) any goods imported by sea or air which are unloaded or attempted to be unloaded at any place other than a customs port or customs airport appointed under clause (a) of section 7 for the unloading of such goods;
- (b) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the import of such goods;
- (c) any dutiable or prohibited goods brought into any bay, gulf, creek or tidal river for the purpose of being landed at a place other than a customs port;
- (d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;
- (e) any dutiable or prohibited goods found concealed in any manner in any conveyance;
- (f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;
- (g) any dutiable or prohibited goods which are unloaded from a conveyance in contravention of the provisions of section 32, other than goods inadvertently unloaded but included in the record kept under sub-section (2) of section 45;
- (h) any dutiable or prohibited goods unloaded or attempted to be unloaded in contravention of the provisions of section 33 or section 34;
- (i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;
- (j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;
- (k) any dutiable or prohibited goods imported by land in respect of which the order permitting clearance of the goods required to be produced under section 109 is not produced or which do not correspond in any material particular with the specification contained therein;
- (l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;
- (m) any dutiable or prohibited goods which do not correspond in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof;
- (n) any dutiable or prohibited goods transited with or without transhipment or attempted to be so transited in contravention of the provisions of Chapter VIII;
- (o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer.

112. *Penalty for improper importation of goods, etc.*—Any person,—

- (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or
- (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111.

shall be liable,—

- (i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding five times the value of the goods or one thousand rupees, whichever is the greater;
- (ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding five times the duty sought to be evaded on such goods or one thousand rupees, whichever is the greater.

113. *Confiscation of goods attempted to be improperly exported, etc.*—The following export goods shall be liable to confiscation:—

- (a) any goods attempted to be exported by sea or air from any place other than a customs port or a customs airport appointed for the loading of such goods;
- (b) any goods attempted to be exported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the export of such goods;
- (c) any dutiable or prohibited goods brought near the land frontier or the coast of India or near any bay, gulf, creek or tidal river for the purpose of being exported from a place other than a land-customs station or a customs port appointed for the loading of such goods;
- (d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;
- (e) any dutiable or prohibited goods found concealed in a package which is brought within the limits of a customs area for the purpose of exportation;
- (f) any dutiable or prohibited goods which are loaded or attempted to be loaded in contravention of the provisions of section 33 or section 34;
- (g) any dutiable or prohibited goods loaded or attempted to be loaded on any conveyance, or water-borne, or attempted to be water-borne for being loaded on any vessel, the eventual destination of which is a place outside India, without the permission of the proper officer;
- (h) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77 in respect thereof;
- (i) any dutiable or prohibited goods which do not correspond in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof;
- (j) any goods on which import duty has not been paid and which are entered for exportation under a claim for drawback under section 74;
- (k) any goods cleared for exportation under a claim for drawback which are not loaded for exportation on account of any wilful act, negligence or default of the exporter, his agent or employee, or which after having been loaded for exportation are unloaded without the permission of the proper officer.

114. *Penalty for attempt to export goods improperly, etc.*—Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable to,—

- (i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding five times the value of the goods or one thousand rupees, whichever is the greater;
- (ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding five times the duty sought to be evaded on such goods or one thousand rupees, whichever is the greater;
- (iii) in the case of goods under claim for drawback, to a penalty not exceeding five times the amount of drawback claimed or one thousand rupees, whichever is the greater.

115. *Confiscation of conveyances.*—(1) The following conveyances shall be liable to confiscation:—

- (a) any vessel which is or has been within the Indian customs waters, any aircraft which is or has been in India, or any vehicle which is or has been in a customs area, while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods;
- (b) any conveyance from which the whole or any part of the goods is thrown overboard staved or destroyed so as to prevent seizure by an officer of customs;
- (c) any conveyance which having been required to stop or land under section 106 fails to do so, except for good and sufficient cause;
- (d) any conveyance from which any warehoused goods cleared for exportation, or any other goods cleared for exportation under a claim for drawback, are unloaded without the permission of the proper officer;

(e) any conveyance carrying imported goods which has entered India and is afterwards found with the whole or substantial portion of such goods missing, unless the master of the vessel or aircraft is able to account for the loss of, or deficiency in, the goods.

(2) Any conveyance or animal used as a means of transport in the smuggling of any goods or in the carriage of any smuggled goods shall be liable to confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all such precautions against such use as are for the time being specified in the rules:

Provided that here any such conveyance is used for the carriage of goods or passengers for hire, the owner of any conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine not exceeding the market price of the goods which are sought to be smuggled or the smuggled goods, as the case may be.

*Explanation.*—In this section, "market price" means market price at the date when the goods are seized.

116. *Penalty for not accounting for goods.*—If any goods loaded in a conveyance for importation into India or any goods transhipped under the provisions of this Act or coastal goods carried in a conveyance, are not unloaded at their place of destination in India, or if the quantity unloaded is short of the quantity to be unloaded at that destination, and if the failure to unload or the deficiency is not accounted for to the satisfaction of the Assistant Collector of Customs, the person-in-charge of the conveyance shall be liable,—

- (a) in the case of goods loaded in a conveyance for importation into India or goods transhipped under the provisions of this Act, to a penalty not exceeding twice the amount of duty that would have been chargeable on the goods not unloaded or the deficient goods, as the case may be, had such goods been imported;
- (b) in the case of coastal goods, to a penalty not exceeding twice the amount of export duty that would have been chargeable on the goods not unloaded or the deficient goods, as the case may be, had such goods been exported.

117. *Penalties for contravention, etc., not expressly mentioned.*—Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding rupees one thousand.

118. *Confiscation of packages and their contents.*—(a) Where any goods imported in a package are liable to confiscation, the package and any other goods imported in that package shall also be liable to confiscation.

(b) Where any goods are brought in a package within the limits of a customs area for the purpose of exportation and are liable to confiscation, the package and any other goods contained therein shall also be liable to confiscation.

119. *Confiscation of goods used for concealing smuggled goods.*—Any goods used for concealing smuggled goods shall also be liable to confiscation.

*Explanation.*—In this section, "goods" does not include a conveyance used as a means of transport.

120. *Confiscation of smuggled goods notwithstanding any change in form, etc.*—(1) Smuggled goods may be confiscated notwithstanding any change in their form.

(2) Where smuggled goods are mixed with other goods in such manner that the smuggled goods cannot be separated from such other goods, the whole of the goods shall be liable to confiscation:

Provided that where the owner of such goods proves that he had no knowledge or reason to believe that they included any smuggled goods, only such part of the goods the value of which is equal to the value of the smuggled goods shall be liable to confiscation.

121. *Confiscation of sole-proceeds of smuggled goods.*—Where any smuggled goods are sold by a person having knowledge or reason to believe that the goods are smuggled goods, the sale-proceeds thereof shall be liable to confiscation.

122. *Adjudication of confiscations and penalties.*—In every case under this Chapter in which anything is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged,—

- (a) without limit, by a Collector of Customs or a Deputy Collector of Customs;
- (b) where the value of the goods liable to confiscation does not exceed ten thousand rupees and where the penalty proposed to be imposed does not exceed two thousand rupees, by an Assistant Collector of Customs;
- (c) where the value of the goods liable to confiscation does not exceed one thousand rupees, and where the penalty proposed

to be imposed does not exceed two hundred rupees, by a gazetted officer of customs lower in rank than an Assistant Collector of Customs.

123. *Burden of proof in certain cases.*—(1) Where any goods to which this section applies are seized under his Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be on the person from whose possession the goods were seized.

(2) This section shall apply to gold, diamonds, manufactures of gold or diamonds, watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.

124. *Issue of show cause notice before confiscation of goods, etc.*—No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person—

- (a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;
- (b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and
- (c) is given a reasonable opportunity of being heard in the matter: Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the request of the person concerned be oral.

125. *Option to pay fine in lieu of confiscation.*—(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that, without prejudice to the provisions of the proviso to sub-section (2) of section 115 such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) For the removal of doubts it is hereby declared that any fine in lieu of confiscation of goods imposed under sub-section (1) shall be in addition to any duty and charges payable in respect of such goods.

126. *On confiscation, property to vest in Central Government.*—(1) When any goods are confiscated under this Act such goods shall thereupon vest in the Central Government.

(2) The officer adjudging confiscation shall take and hold possession of the confiscated goods.

127. *Award of confiscation or penalty by customs officers not to interfere with other punishments.*—The award of any confiscation or penalty under this Act by an officer of customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of Chapter XVI of this Act, or under any other law.

## CHAPTER XV

### APPEALS AND REVISION

128. *Appeals.*—(1) Any person aggrieved by any decision or order passed under this Act may, within three months from the date of the communication to him of such decision or order—

- (a) where the decision or order has been passed by a Collector of Customs, appeal to the Board;
- (b) where the decision or order has been passed by an officer of customs lower in rank than a Collector of Customs, appeal to the Appellate Collector of Customs:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(2) The Appellate Authority may, after giving an opportunity to the appellant to be heard, if he so desires, and making such further inquiry as may be necessary, pass such order as it thinks fit, confirming, modifying or annulling the decision or order appealed against:

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall not be passed—

- (a) by an appellate Collector of Customs;
- (b) by the Board unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Appellate Authority is of opinion that any duty of customs has been short-levied, no order enhancing the duty shall be passed unless the appellant is given notice within the time-limit specified in section 28 to show cause against the proposed order.

**129. Deposit, pending appeal, of duty demanded or penalty levied.**—(1) Where the decision or order appealed against relates to any duty demanded in respect of goods which are not under the control of customs authorities or any penalty levied under this Act, any person desirous of appealing against such decision or order shall, pending the appeal, deposit with the proper officer the duty demanded or the penalty levied:

Provided that where in any particular case the appellate authority is of opinion that the deposit of duty demanded or penalty levied will cause undue hardship to the appellant, it may in its discretion dispense with such deposit, either unconditionally or subject to such conditions as it may deem fit.

(2) If upon any such appeal it is decided that the whole or any portion of such duty or penalty was not leviable, the proper officer shall return to the appellant such amount of duty or penalty as was not leviable.

**130. Powers of revision of Board.**—(1) The Board may of its own motion or on the application of any aggrieved person call for and examine the record of any proceeding in which an officer of customs has passed any decision or order under this Act (not being an order passed in appeal under section 128) for the purpose of satisfying itself as to the legality or propriety of any such decision or order and may pass such order thereon as it thinks fit:

Provided that no order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section unless the person affected by the proposed order has been given a reasonable opportunity of showing cause against it:

Provided further that where the Board is of opinion that any duty of customs has not been levied or has been short-levied, no order levying or enhancing the duty shall be made unless the person affected by the proposed order is given notice to show cause against it within the time-limit specified in section 28.

(2) No decision or order passed by an officer of customs shall be revised under this section by the Board of its own motion and no application for the revision of any such decision or order shall be entertained, after the expiry of two years from the date of such decision or order.

**131. Revision by Central Government.**—(1) The Central Government may, on the application of any person aggrieved by—

(a) any order passed under section 128, or  
 (b) any order passed under section 130 otherwise than on the application of any aggrieved person, or  
 (c) any order passed on the application of any aggrieved person under section 130 where the order is of the nature referred to in either of the provisos to sub-section (1) that section, annul or modify such order.

(2) An application under sub-section (1) shall be made within six months from the date of the communication to the applicant of the order against which the application is being made:

Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of six months, allow it to be presented within a further period of six months.

(3) The Central Government may of its own motion annul or modify any order passed under section 128 or section 130.

(4) No order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section—

(a) in any case in which an order passed under section 128 or section 130 has enhanced any penalty or fine in lieu of confiscation or has confiscated goods of greater value; and  
 (b) in any other case, unless the person affected by the proposed order has been given notice to show cause against it, within one year from the date of the order sought to be annulled or modified.

(5) Where the Central Government is of opinion that any duty of customs has not been levied or has been short-levied, no order levying or enhancing the duty shall be made under this section, unless the person affected by the proposed order is given notice to show cause against it within the time-limit specified in section 28.

## CHAPTER XVI

### OFFENCES AND PROSECUTIONS

**132. False declaration, false documents, etc.**—Whoever makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document in the transaction of any business relating to the customs, knowing or having reason to believe that such declaration, statement or document is false in any material particular, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**133. Obstruction of officer of customs.**—If any person intentionally obstructs any officer of customs in the exercise of any powers conferred under this Act, such person shall be punishable with

imprisonment for a term which may extend to six months, or with fine, or with both.

**134. Refusal to be X-rayed.**—If any person—

(a) resists or refuses to allow a radiologist to screen or to take X-ray picture of his body in accordance with an order made by a magistrate under section 103, or  
 (b) resists or refuses to allow suitable action being taken on the advice and under the supervision of a registered medical practitioner for bringing out goods liable to confiscation secreted inside his body, as provided in section 103; he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

**135. Evasion of duty or prohibitions.**—Without prejudice to any action that may be taken under this Act, if any person—

(a) is in relation to any goods in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any prohibition for the time being imposed under this Act or any other law for the time being in force with respect to such goods, or  
 (b) acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111, he shall be punishable,—

(i) in the case of an offence relating to any of the goods to which section 123 applies and the market price whereof exceeds one lakh of rupees, with imprisonment for a term which may extend to five years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with imprisonment for a term which may extend to two years, or with fine or with both.

**136. Offences by officers of customs.**—(1) If any officer of customs enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any duty of customs leviable on any goods or any prohibition for the time being in force under this Act or any other law for the time being in force with respect to any goods is or may be evaded, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(2) If any officer of customs—

(a) requires any person to be searched for goods liable to confiscation or any document relating thereto, without having reason to believe that he has such goods or document secreted about his person; or

(d) arrests any person without having reason to believe that he has been guilty of an offence punishable under section 135; or

(c) searches or authorises any other officer of customs to search any place without having reason to believe that any goods, documents or things of the nature referred to in section 105 are secreted in that place,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(3) If any officer of customs, except in the discharge in good faith of his duty as such officer or in compliance with any requisition made under any law for the time being in force, discloses any particulars learnt by him in his official capacity in respect of any goods, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**137. Cognizance of offences.**—(1) No court shall take cognizance of any offence under section 132, section 133, section 134 or section 135, except with the previous sanction of the Collector of Customs.

(2) No court shall take cognizance of any offence under section 136.—

(a) where the offence is alleged to have been committed by an officer of customs not lower in rank than Assistant Collector of Customs, except with the previous sanction of the Central Government;

(b) where the offence is alleged to have been committed by an officer of customs lower in rank than Assistant Collector of Customs, except with the previous sanction of the Collector of Customs.

**138. Offences to be tried summarily.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence under this Chapter other than an offence punishable under clause (i) of section 135 may be tried summarily by a magistrate.

**139. Presumption as to documents in certain cases.**—Where any document is produced by any person under this Act or has been seized under this Act from the custody or control of any person, and

such document is tendered by the prosecution in evidence against him, the court shall,—

(a) unless the contrary is proved by any such person, presume—

- (i) the truth of the contents of such document;
- (ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

**140. Offences by companies.**—(1) If the person committing an offence under this Chapter is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Chapter if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Chapter has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.**—For the purposes of this section,—

- (a) "company" means a body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

## CHAPTER XVII

### MISCELLANEOUS

**141. Conveyances and goods in a customs area subject to control of officers of customs.**—All conveyances and goods in a customs area shall, for the purpose of enforcing the provisions of this Act, be subject to the control of officers of customs.

**142. Recovery of sums due to Government.**—(1) Where any duty demanded from any person or any penalty payable by any person under this Act is not paid,—

(a) the proper officer may deduct or may require any other officer of customs to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other officer of customs; or

(b) the Assistant Collector of Customs may recover or may require any other officer of customs to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the Assistant Collector of Customs or such other officer of customs; or

(c) if the amount cannot be recovered from such person in the manner provided in clause (a) or clause (b), the Assistant Collector of Customs may prepare a certificate signed by him, specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector on receipt of such certificate shall proceed to recover from the said person the amount specified thereunder as if it were an arrear of land revenue.

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

**143. Power to allow import or export on execution of bonds in certain cases.**—(1) Where this Act or any other law requires anything to be done before a person can import or export any goods or clear any goods from the control of officers of customs and the Assistant Collector of Customs is satisfied that having regard to the circumstances of the case, such thing cannot be done before such import, export or clearance without detriment to that person, the Assistant Collector of Customs may, notwithstanding anything contained in this Act or such other law, grant leave for such import, export or clearance on the person executing a bond in such amount, with such surety or security and subject to such conditions as the Assistant Collector of Customs approves, for the doing of that thing within such time after the import, export or clearance as may be specified in the bond.

(2) If the thing is done within the time specified in the bond, the Assistant Collector of Customs shall cancel the bond as discharged in full and shall, on demand, deliver it, so cancelled, to the person who has executed or who is entitled to receive it; and in such a case that person shall not be liable to any penalty provided in this Act or, as the case may be, in such other law for the contravention of the provisions thereof relating to the doing of that thing.

(3) If the thing is not done within the time specified in the bond, the Assistant Collector of Customs shall, without prejudice to any other action that may be taken under this Act or any other law for the time being in force, be entitled to proceed upon the bond in accordance with law.

**144. Power to take samples.**—(1) The proper officer may, on the entry or clearance of any goods or at any time while such goods are being passed through the customs area, take samples of such goods in the presence of the owner thereof, for examination or testing, or for ascertaining the value thereof, or for any other purposes of this Act.

(2) After the purpose for which a sample was taken is carried out, such sample shall, if practicable, be restored to the owner, but if the owner fails to take delivery of the sample within three months of the date on which the sample was taken, it may be disposed of in such manner as the Collector of Customs may direct.

(3) No duty shall be chargeable on any sample of goods taken under this section which is consumed or destroyed during the course of any test or examination thereof, if such duty amounts to five rupees or more.

**145. Owner, etc. to perform operations incidental to compliance with customs law.**—All operations necessary for making any goods available for examination by the proper officer for facilitating such examination shall be performed by, or at the expense of, the owner, importer or exporter of the goods, as the case may be.

**146. Custom house agents to be licensed.**—(1) No person shall carry on business as an agent relating to the entry or departure of a conveyance or the import or export of goods at any customs-station unless such person holds a licence granted in this behalf in accordance with the regulations.

(2) The Board may make regulations for the purpose of carrying out the provisions of this section and, in particular, such regulations may provide for—

- (a) the authority by which a licence may be granted under this section and the period of validity of any such licence;
- (b) the form of the licence and the fees payable therefor;
- (c) the qualifications of persons who may apply for a licence and the qualifications of persons to be employed by a licensee to assist him in his work as an agent;
- (d) the restrictions and conditions (including the furnishing of security by the licensee) subject to which a licence may be granted;
- (e) the circumstances in which a licence may be suspended or revoked; and
- (f) the appeals, if any, against an order of suspension or revocation of a licence, and the period within which such appeals shall be filed.

**147. Liability of principal and agent.**—(1) Where this Act requires anything to be done by the owner, importer or exporter of any goods, it may be done on his behalf by his agent.

(2) Any such thing done by an agent of the owner, importer or exporter of any goods shall, unless the contrary is proved, be deemed to have been done with the knowledge and consent of such owner, importer or exporter, so that in any proceedings under this Act, the owner, importer or exporter of the goods shall also be liable as if the thing had been done by himself.

(3) When any person is expressly or impliedly authorised by the owner, importer or exporter of any goods to be his agent in respect of such goods for all or any of the purposes of this Act, such person shall, without prejudice to the liability of the owner, importer or exporter, be deemed to be the owner, importer or exporter of such goods for such purposes:

Provided that where any duty is not levied or is short-levied or erroneously refunded on account of any reason other than any wilful act, negligence or default of the agent, such duty shall not be recovered from the agent unless in the opinion of Assistant Collector of Customs the same cannot be recovered from the owner, importer or exporter.

**148. Liability of agent appointed by the person in charge of a conveyance.**—(1) Where this Act requires anything to be done by the person in charge of a conveyance, it may be done on his behalf by his agent.

(2) An agent appointed by the person in charge of a conveyance and any person who represents himself to any officer of customs as an agent of any such person in charge, and is accepted as such by that officer, shall be liable for the fulfilment in respect of the matter in question of all obligations imposed on such person in charge by or under this Act or any law for the time being in force, and to penalties and confiscations which may be incurred in respect of that matter.

149. *Amendment of Documents.*—Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the customs house to be amended:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.

150. *Procedure for sale of goods and application of sale-proceeds.*—(1) Where any goods not being confiscated goods are to be sold under any provisions of this Act, they shall, after notice to the owner thereof, be sold by public auction or by tender or with the consent of the owner in any other manner.

(2) The proceeds of any such sale shall be applied—

- (a) firstly to the payment of the expenses of the sale;
- (b) next to the payment of the freight and other charges, if any, payable in respect of the goods sold, to the carrier, if notice of such charges has been given to the person having custody of the goods;
- (c) next to the payment of the duty, if any, on the goods sold;
- (d) next to the payment of the charges in respect of the goods sold due to the person having the custody of the goods;
- (e) next to the payment of any amount due from the owner of the goods to the Central Government under the provisions of this Act or any other law relating to customs, and the balance, if any, shall be paid to the owner of the goods.

151. *Certain officers required to assist officers of customs.*—The following officers are hereby empowered and required to assist officers of customs in the execution of this Act, namely:—

- (a) officers of the Central Excise Department;
- (b) officers of the Navy;
- (c) officers of Police;
- (d) officers of the Central or State Governments employed at any port or airport;
- (e) such other officers of the Central or State Government or a local authority as are specified by the Central Government in this behalf by notification in the Official Gazette.

152. *Delegation of powers.*—The Central Government may, by notification in the Official Gazette, direct that subject to such conditions, if any, as may be specified in the notification—

- (a) any power exercisable by the Board under this Act shall be exercisable also by a Collector of Customs empowered in this behalf by the Central Government;
- (b) any power exercisable by a Collector of Customs under this Act may be exercisable also by a Deputy Collector of Customs or an Assistant Collector of Customs empowered in this behalf by the Central Government;
- (c) any power exercisable by a Deputy Collector of Customs under this Act may be exercisable also by an Assistant Collector of Customs empowered in this behalf by the Central Government;
- (d) any power exercisable by an Assistant Collector of Customs under this Act may be exercisable also by a gazetted officer of customs empowered in this behalf by the Board.

153. *Service of order, decision, etc.*—Any order or decision passed or any summons or notice issued under this Act, shall be served—

- (a) by tendering the order, decision, summons or notice or sending it by registered post to the person for whom it is intended or to his agent; or
- (b) if the order, decision, summons or notice cannot be served in the manner provided in clause (a), by affixing it on the notice board of the customs house.

154. *Correction of clerical errors, etc.*—Clerical or arithmetical mistakes in any decision or order passed by the Central Government, the Board or any officer of customs under this Act, or errors arising therefrom any accidental slip or omission may, at any time, be corrected by the Central Government, the Board or such officer of customs or the successor in office of such officer, as the case may be.

155. *Protection of action taken under the Act.*—(1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of the Government or a local authority for anything which is done, or intended to be done in good faith, in pursuance of this Act or the rules or regulations.

(2) No proceeding other than a suit shall be commenced against the Central Government or any officer of the Government or a local authority for anything purporting to be done in pursuance of this Act without giving the Central Government or such officer a month's previous notice in writing of the intended proceeding and of the cause thereof, or after the expiration of three months from the accrual of such cause.

156. *General power to make rules.*—(1) Without prejudice to my power to make rules contained elsewhere in this Act the Central

Government may make rules consistent with this Act generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner of determining the nearest ascertainable equivalent of the normal price of any goods;
- (b) the conditions subject to which accessories of, and spare parts and maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article;
- (c) the precautions that shall be taken by the owner, his agent and the person-in-charge of any conveyance or animal for the purposes of sub-section (2) of section 115;
- (d) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;
- (e) the reimbursement by an informant to any public officer of all expenses and damages incurred in respect of any detention of any goods made on his information and of any proceedings consequent on such detention;
- (f) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed.

157. *General power to make regulations.*—(1) Without prejudice to any power to make regulations contained elsewhere in this Act, the Board may make regulations consistent with this Act and the rules, generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the form of a bill of entry, shipping bill, bill of export, import manifest, import report, export manifest, export report, bill of transhipment, boat note and bill of coastal goods;
- (b) the conditions subject to which the transhipment of all or any goods under sub-section (3) of section 54, the transportation of all or any goods under section 56 and the removal of warehoused goods from one warehouse to another under section 67 may be allowed without payment of duty;
- (c) the conditions subject to which any manufacturing process or other operations may be carried on in a warehouse under section 65.

158. *Provisions with respect to rules and regulations.*—(1) All rules and regulations made under this Act shall be published in the Official Gazette.

(2) Any rule or regulation which the Central Government or the Board is empowered to make under this Act may provide—

- (i) for the levy of fees in respect of applications, amendment of documents, furnishing of duplicates of documents, issue of certificates, and supply of statistics, and for rendering of any services by officers of customs under this Act;
- (ii) that any person who contravenes any provision of a rule or regulation or abets such contravention or any person who fails to comply with any provision of a rule or regulation with which it was his duty to comply, shall be liable,—
  - (a) in the case of contravention or failure to comply with a rule, to a penalty which may extend to five hundred rupees;
  - (b) in the case of contravention or failure to comply with a regulation, to a penalty which may extend to two hundred rupees.

159. *Rules and certain notifications to be laid before parliament.*—Every rule made under this Act and every notification issued under sections 11, 14, 25, 43, 66, 69, 70, 74, 75, 76, 98, 101 and 123 shall be laid as soon as may be after it is made or issued before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

160. *Repeal and savings.*—(1) The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(2) In the Indian Tariff Act, 1934 (32 of 1934)—

- (a) for section 2, the following section shall be substituted, namely:—

“2. *Duties specified in the Schedules to be levied.*—The rates at which duties of customs shall be levied under the Customs Act, 1962, are specified in the First and Second Schedules.”;

(b) sections 5 and 6 shall stand repealed.

(3) Notwithstanding the repeal of any enactment by this section,—

(a) any notification, rule, regulation, order or notice issued or any appointment or declaration made or any licence, permission or exemption granted or any assessment made, confiscation adjudged or any duty levied or any penalty or fine imposed or any forfeiture, cancellation or discharge of any bond ordered or any other thing done or any other action taken under any repealed enactment shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act;

(b) any document referring to any enactment hereby repealed shall be construed as referring to this Act or to the corresponding provision of this Act.

(4) This Act shall apply to all goods which are subject to the control of customs at the commencement of this Act notwithstanding that the goods were imported before such commencement.

(5) Where the period prescribed for any application, appeal, revision or other proceeding under any repealed enactment had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal or revision to be made or a proceeding to be instituted under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority.

(6) The provisions of section 65 shall apply to goods warehoused before the commencement of this Act if the operations permissible under that section were carried on after such commencement.

(7) Any duty or penalty payable under any repealed enactment may be recovered in a manner provided under this Act but without prejudice to any action already taken for the recovery of such duty or penalty under the repealed enactment.

(8) The mention of particular matters in sub-sections (4), (5), (6) and (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals.

(9) Nothing in this Act shall affect any law for the time being in force relating to the constitution and powers of any Port authority in a major port as defined in the Indian Ports Act, 1908 (15 of 1908).

161. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act, the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to be necessary or expedient for the purpose of removing the difficulty.

#### THE SCHEDULE (See section 160) REPEALS

Year 1	No. 2	Short title 3	Extent of repeal 4
1878	8	The Sea Customs Act	.. The whole
1896	8	The Inland Bonded Warehouses Act	.. The whole
1924	19	The Land Customs Act	.. The whole
1934	22	The Aircraft Act	.. Section 16.

Assented to on 13-12-1962

#### THE GIFT-TAX (AMENDMENT) ACT, 1962 (ACT NO. 53 OF 1962)

#### AN ACT

Further to amend the Gift-tax Act, 1958.

Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:

1. *Short title and commencement.*—(1) This Act may be called the Gift-tax (Amendment) Act, 1962.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*—In section 2 of the Gift-tax Act, 1958 (18 of 1958) (hereinafter referred to as the principal Act),—

(a) for clauses (ii), (iii) and (iv), the following clauses shall be substituted, namely:—

(ii) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act;

(iii) "assessee" means a person by whom gift-tax or any other sum of money is payable under this Act and includes—

(a) every person in respect of whom any proceeding under this Act has been taken for the determination of

gift-tax payable by him or by any other person or the amount of refund due to him or such other person;

(d) every person who is deemed to be an assessee under this Act;

(c) every person who is deemed to be an assessee in default under this Act;

(iv) "assessment" includes re-assessment;

(iv) "assessment year" means the period of twelve months commencing on the 1st day of April, every year;—

(d) after clause (v), the following clause shall be inserted, namely:—

(v) "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility not involving the carrying on of any activity for profit;

(c) after clause (vii), the following clause shall be inserted, namely:—

(viii) "Director of Inspection" includes an Additional Director of Inspection, a Deputy Director of Inspection and an Assistant Director of Inspection;—

(d) for clause (xiv), the following clause shall be substituted, namely:—

(xiv) "Income-tax Act" means the Income-tax Act, 1961 (43 of 1961);—

(e) after clause (xvi), the following clauses shall be inserted, namely:—

(xvi) "Inspector of Gift-tax" means an Inspector of Income-tax empowered to work as an Inspector of Gift-tax under section 11;

(xvib) "legal representative" has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908 (5 of 1908);—

(f) in clause (xx)—

(i) in sub-clause (b), for the words, brackets, letters and figures "under sub-clause (a) of clause (11) of section 2 of the Income-Tax Act or such period determined as the previous year under sub-clause (b) of clause (11) of that section, whichever expired last", the words, brackets, letters and "figures under sub-clause (a) or sub-clause (b), as the case may be, of sub-section (1) of section 3 of the Income-Tax Act or such period determined as the previous year under clause (c) of that sub-section, whichever expired last shall be substituted;

(ii) in sub-clause (c), for the words, brackets and figures "clause (11) of section 2", the word and figure "section 3" shall be substituted.

3. *Amendment of section 3.*—In section 3 of the principal Act, for the words "financial year", the words "assessment year" shall be substituted.

4. *Amendment of section 5.*—In section 5 of the principal Act,—

(i) in sub-section (1), in clause (v), for the word, figures and letter "section 15B", the word and figures "section 88" shall be substituted;

(ii) in the *Explanation*, in clause (a), for the words "in the taxable territories within the meaning of the Income-tax Act", the following shall be substituted, namely:—

"within the meaning of section 6 of the Income-tax Act, subject to the modification that references in that section to India shall be construed as references to the territories to which this Act extends".

5. *Insertion of new section 7A.*—After section 7 of the principal Act, the following section shall be inserted, namely:—

"7A. *Power to transfer cases.*—(1) Notwithstanding anything contained in section 7, the Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one Gift-tax Officer subordinate to him to another also subordinate to him, and the Board may similarly transfer any case from one Gift-tax Officer to another:

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from one Gift-tax Officer to another whose offices are situated in the same city, locality or place.

(2) The transfer of a case under sub-section (1) may be made at any stage of the proceedings, and shall not render necessary, the re-issue of any notice already issued by the Gift-tax Officer from whom the case is transferred.

*Explanation.*—In this section the word 'case' in relation to any person whose name is specified in any order issued thereunder means all proceedings under this Act in respect of any year which may be pending on or before the date of such order, or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any year."

6. *Insertion of new section 9A.*—After section 9 of the principal Act, the following section shall be inserted, namely:—

"9A. *Directors of Inspection.*—(1) The Board may empower as many persons as it thinks fit to exercise under this Act

the functions of a Director of Inspection.

(2) A Director of Inspection shall be competent to make any enquiry under this Act and for this purpose, shall have all the powers that a Gift-tax Officer has under this Act in relation to the making of enquiries.

(3) Without prejudice to the provisions of sub-section (2), a Director of Inspection shall exercise such other functions of any Gift-tax authority as may be assigned to him by the Board.

7. *Substitution of new section for section 11.*—For section 11 of the principal Act, the following sections shall be substituted, namely:—

“11. *Inspector of Gift-tax.*—A Commissioner of Gift-tax may empower any Inspector of Income-tax to work as an Inspector of Gift-tax under any Gift-tax authority, and when he is so empowered, he shall perform such functions in the execution of this Act as are assigned to him by the said Gift-tax authority.

11A. *Control of Gift-tax authorities.*—(1) Inspecting Assistant Commissioners shall be subordinate to the Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(2) Gift-tax Officers shall be subordinate to the Commissioner and the Inspecting Assistant Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(3) Inspectors of Gift-tax shall be subordinate to the Gift-tax Officers or other Gift-tax authority under whom they are empowered to work and to any other Gift-tax authority to whom the said officer or other authority is subordinate.

*Explanation.*—For the purposes of sub-section (1), “Director of Inspection” does not include a Deputy Director of Inspection or an Assistant Director of Inspection and for the purposes of sub-section (2), “Director of Inspection” does not include an Assistant Director of Inspection.

8. *Amendment of section 12.*—Section 12 of the principal Act, shall be re-numbered as sub-section (1) thereof and after the sub-section so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Every Gift-tax Officer employed in the execution of this Act shall observe and follow such instructions as may be issued to him for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.”.

9. *Insertion of new section 12A.*—In Chapter III of the principal Act, after section 12, the following section shall be inserted, namely:—

“12A. *Power of Commissioner of Gift-tax and of Inspecting Assistant Commissioner of Gift-tax to make enquiries under this Act.*—The Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax shall be competent to make any enquiry under this Act and for this purpose, shall have all the powers that a Gift-tax Officer has under this Act in relation to the making of enquiries.”.

10. *Amendment of section 13.*—In section 13 of the principal Act,—

(i) in sub-section (1), after the words “taxable gifts”, the words “or is assessable in respect of the taxable gifts made by any other person under this Act” shall be inserted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) In the case of any person who, in the Gift-tax Officer’s opinion, is assessable under this Act whether in respect of the gifts made by him or by any other person during the previous year, the Gift-tax Officer may, before the end of the relevant assessment year serve a notice upon him requiring him to furnish within thirty days from the date of service of the notice a return of the gifts made by him or by such other person during the previous year in the prescribed manner and setting forth such other particulars as may be prescribed.”.

11. *Insertion of new section 14A.*—After section 14 of the principal Act, the following section shall be inserted namely:—

“14A. *Return by whom to be signed.*—The return made under section 13 or section 14 shall be signed and verified—

(a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by the Karta, and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any adult member of such family;

(c) in the case of a company, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof, not being a minor;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by some person competent to act on his behalf.”.

12. *Amendment of section 15.*—In section 15 of the principal Act,—

(i) in sub-section (1),—

(a) for the words “is complete”, the words “is correct and complete” shall be substituted;

(b) for the words “and determine the amount payable by him as gift-tax”, the words “and determine the amount of gift-tax payable by him or the amount refundable to him on the basis of such return” shall be substituted;

(ii) in sub-section (3), after the words “any specified points” the words “and after taking into account all relevant material which the Gift-tax Officer has gathered” shall be inserted;

(iii) in sub-section (5), after the words “the Gift-tax Officer”, the words “after taking into account all relevant material which he has gathered” shall be inserted.

13. *Amendment of section 16.*—In section 16 of the principal Act, in sub-section (1), for clause (a), the following clause shall be substituted, namely:—

“(a) has reason to believe that by reason of the omission or failure on the part of the assessee to make a return under section 13 of the gifts made by him or any other person in respect of which he is assessable under this Act for any assessment year, or to disclose fully and truly all material facts necessary for assessment of the gifts made by him or such other persons for that year any taxable gift has escaped assessment for that year, whether by reason of under-assessment or assessment at too low a rate or otherwise; or”.

14. *Substitution of new section for section 17.*—For section 17 of the principal Act, the following section shall be substituted, namely:—

“17. *Penalty for failure to furnish returns, to comply with notices and concealment of gifts, etc.*—(1) If the Gift-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

(a) has without reasonable cause failed to furnish the return required to be furnished under sub-section (1) of section 13 or by notice given under sub-section (2) of section 13 or section 16 or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 13 or by such notice, as the case may be, or

(b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 15; or

(c) has concealed the particulars of any gift or deliberately furnished inaccurate particulars thereof, he or it may, by order in writing, direct that such person shall pay by way of penalty—

(i) in the cases referred to in clause (a), in addition to the amount of gift-tax payable by him, a sum equal to two per cent of the tax for every month during which the default continues, but not exceeding in the aggregate fifty per cent of the tax;

(ii) in the cases referred to in clause (b), in addition to the amount of gift-tax payable by him, a sum which shall not be less than ten per cent, but which shall not exceed fifty per cent of the amount of the tax, if any, which would have been avoided if the return made by such person had been accepted as correct;

(iii) in the cases referred to in clause (c), in addition to any gift-tax payable by him, a sum which shall not be less than twenty per cent but which shall not exceed one and half times the amount of the tax, if any, which would have been avoided if the return made by such person had been accepted as correct.

(2) No order imposing a penalty under sub-section (1) shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard.

(3) Notwithstanding anything contained in clause (iii) of sub-section (1), if in a case falling under clause (c) of that sub-section, the minimum penalty imposable exceeds a sum of rupees one thousand, the Gift-tax Officer shall refer the case to the Inspecting Assistant Commissioner who shall, for the purpose, have all the powers conferred under this section for the purpose, have all the powers conferred under this section for the imposition of penalty.

(4) An appellate Assistant Commissioner, Commissioner or the Appellate Tribunal, on making an order under this section imposing penalty, shall forthwith send a copy of the same to the Gift-tax Officer.”.

15. *Insertion of new section 19A.*—After section 19 of the principal Act, the following section shall be inserted, namely:—

“19A. *Assessment of persons leaving India.*—(1) Notwithstanding

any thing contained in section 3, when it appears to the Gift-tax Officer that any individual may leave India during the current assessment year or shortly after its expiry and that he has no present intention of returning to India the gifts made by such individual during the period from the expiry of the previous year for the assessment year up to the probable date of his departure from India shall be chargeable to gift-tax in that assessment year.

- (2) The taxable gifts made in each completed previous year or part of any previous year included in such period shall be chargeable to gift-tax at the rate or rates specified in the Schedule, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.
- (3) The Gift-tax Officer may estimate the value of the gifts made by such individual during such period or any part thereof, where it cannot be readily determined in the manner provided in this Act.
- (4) For the purpose of making an assessment under sub-section (1), the Gift-tax Officer may serve a notice upon such individual requiring him to furnish, within such time, not being less than seven days, as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 13, giving particulars of the gifts made by him during each completed previous year comprised in that period referred to in sub-section (1) and during any part of the previous year comprised in that period; and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a notice issued under sub-section (2) of section 13.
- (5) The gift-tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

(6) Where the provisions of sub-section (1) are applicable, any notice issued by the Gift-tax Officer under sub-section (2) of section 13 or under section 16 in respect of any gift-tax chargeable under any other provisions of this Act may, notwithstanding anything contained in sub-section (2) of section 13 or section 16, as the case may be, require the furnishing of the return by such individual within such period, not being less than seven days, as the Gift-tax Officer may think proper.

16. *Invention of new section 21A.* In Chapter V of the principal Act, after section 21, the following section shall be inserted, namely:—

**21A. Amendment of donee when donor cannot be found.—(1)** Where a Gift-tax Officer after using all due and reasonable diligence cannot find the donor who has made any taxable gifts, for the purpose of service of notice under sub-section (2) of section 13 or under section 16, the Gift-tax Officer may make an assessment of the value of all such taxable gifts made by him and determine the gift-tax payable by him and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the donor, require from the donee or donees any accounts, documents or other evidence which might, under the provisions of section 15, have been required from the donor.

(2) Where any assessment in respect of the taxable gifts made by the donor has been made under sub-section (1), every donee shall be liable for the gift-tax so assessed: Provided that here the donees are more than one, they shall be jointly and severally liable for the amount of the gift-tax so assessed: Provided further that the amount of the gift-tax which may be recovered from each donee shall not exceed the value of the gift made to him as on the date of the gift.

(3) The provisions of sections 13, 14 and 16 shall apply to a donee as they apply to any person referred to in those sections.”.

17. *Amendment of section 22.* In section 22 of the principal Act,—

- (i) in sub-section (1):
  - (a) in clause (a), the word “this” shall be omitted;
  - (b) in clause (f):
    - (1) for the words, brackets and figures “sub-section (1) of section 46 of the Income-tax Act”, the words, brackets and figures “sub-section (1) of section 221 of the Income-tax Act” shall be substituted;
    - (2) the word “or” shall be added at the end;
  - (c) after clause (f), the following clauses shall be inserted, namely:
    - (g) objecting to an order of the Gift-tax Officer under section 34 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under that section; or

(h) objecting to any fine imposed by the Gift-tax Officer under sub-section (2) of section 36”;

(ii) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(5A) In disposing of an appeal, the Appellate Assistant Commissioner may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the Appellate Assistant Commissioner by the appellant.

“(5B) The order of the Appellate Assistant Commissioner disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.”.

18. *Amendment of section 23.*—In section 23 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) An assessee objecting to an order passed by the Appellate Assistant Commissioner under section 17 or section 22 or sub-section (2) of section 36 or to an order passed by the Inspecting Assistant Commissioner under sub-section (3) of section 17, may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Gift-tax Officer or the assessee, as the case may be on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross objections, verified in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1) or sub-section (2).”;

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross objections after the expiry of the relevant period referred to in sub-section (1) or sub-section (2) or sub-section (2A) if it is satisfied that there was sufficient cause for not presenting it within that period.”;

(iv) in sub-section (11), for the words, brackets, figures and letter sub-sections (5), (7) and (8) of section 5A of the Income-tax Act”, the words, brackets and figures “sub-sections (1), (4) and (5) of section 255 of the Income-tax Act” shall be substituted.

19. *Amendment of section 24.*—In section 24 of the principal Act, to sub-section (3), the following *Explanation* shall be added, namely:—

**“Explanation.**—In computing the period of limitation for purposes of this sub-section, the time taken in giving an opportunity to the assessee to be heard under the proviso to section 38 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.”.

20. *Amendment of section 25.*—In section 25 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) An assessee objecting to an order passed by the Commissioner under section 17 or to an order of enhancement passed by him under section 24 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.”.

21. *Amendment of section 26.*—In section 26 of the principal Act,—

(i) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) The assessee or the Commissioner may, within sixty days of the date upon which he is served with notice of an order under section 23 or section 25, by application in the prescribed form, accompanied, where the application is made by the assessee, by a fee of rupees one hundred require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court.

(2) The Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period specified in sub-section

(1), allow it to be presented within a further period not exceeding thirty days.”;

4. after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) If, on an application made under this section, the Appellate Tribunal is of the opinion that on account of a conflict in the decisions of High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through its President direct to the Supreme Court.”;

5. in sub-sections (4), (5) and (6), after the words “High Court”, the words “or the Supreme Court” shall be inserted;

6. for sub-sections (7), (8) and (9), the following sub-section shall be substituted, namely:—

“(7) The cost of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference shall be in the discretion of the Court.”.

7. *Insertion of new sections 28A and 28B.*—In Chapter VI of the principal Act, after section 28, the following sections shall be inserted, namely:—

3A. *Tax to be paid notwithstanding reference, etc.*—Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, tax shall be payable in accordance with the assessment made in the case.

B. *Definition of High Court.*—In the Chapter, “High Court” means—

(i) in relation to any State, the High Court of that State;

(ii) in relation to the Union territories of Delhi and Himachal Pradesh, the High Court of Punjab;

(iii) in relation to the Union territories of Manipur and Tripura, the High Court of Assam;

(iv) in relation to the Union territory of Andaman and Nicobar Islands, the High Court at Calcutta;

(v) in relation to the Union territory of Laccadiv, Manicoy and Amindivi Islands, the High Court of Kerala’.

8. *Substitution of new section for section 29.*—For section 29 of the principal Act, the following section shall be substituted, namely:—

9. *Gift-tax by whom payable.*—Subject to the provisions of this Act, gift-tax shall be payable by the donor but when in the opinion of the Gift-tax Officer the tax cannot be recovered from the donor, it may be recovered from the donee:—

Provided that where the donees are more than one, they shall be severally liable for the amount of tax determined to be payable by the donor:

Provided further that the amount of tax which may be recovered from each donee shall not exceed the value of the gift made to him on the date of the gift.”.

10. *Substitution of new sections for sections 31, 32 and 33.*—For sections 31, 32 and 33 of the principal Act, the following sections shall be substituted, namely:—

1. *Notice of demand.*—When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Gift-tax Officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable.

2. *Recovery of tax and penalties.*—(1) Any amount specified as payable in a notice of demand under section 31 shall be paid within thirty-five days of the service of the notice at the place and to the person mentioned in the notice:—

Provided that, where the Gift-tax Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty-five days aforesaid is allowed, he may, with the previous approval of the Inspecting Assistant Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty-five days aforesaid, as may be specified by him in the notice of demand.

3. If the amount specified in any notice of demand under section 31 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at four per cent per annum from the day commencing after the end of the period mentioned in sub-section (1).

4. Without prejudice to the provisions contained in sub-section 31, on an application made by the assessee before the expiry of the date under sub-section (1), the Gift-tax Officer may extend the date for payment or allow payment by instalments subject to such conditions as he may think fit to impose in the circumstances of the case.

5. If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice, the assessee shall be deemed to be in default.

(5) If in a case where payment by instalments is allowed under sub-section (3), the assessee commits default in paying any one of the instalments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(6) Where the assessee has presented an appeal under section 22, the Gift-tax Officer may in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired as long as such appeal remains undisposed of.

33. *Mode of recovery.*—The provisions contained in sections 221 to 227, 229, 231 and 232 of the Income-Tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were provisions of this Act and referred to gift-tax and sums imposed by way of penalty, fine and interest under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under that Act and to Gift-tax Officer and Commissioner of Gift-tax instead of to Income-tax Officer and Commissioner of Income-tax.

*Explanation I.*—Any reference to sub-section (2) or sub-section (6) of section 220 of the Income-tax Act in the said provisions of that Act or the rules made thereunder shall be construed as references to sub-sections (2) and (6) respectively of section 32 of this Act.

*Explanation II.*—The Tax Recovery Officer and the Tax Recovery Commissioner referred to in the Income-Tax Act or the rules made thereunder shall be deemed to be the Tax Recovery Officer and the Tax Recovery Commissioner for the purposes of recovery of gift-tax and sums imposed by way of penalty, fine and interest under this Act.”.

25. *Insertion of new Chapter VIIA.*—After Chapter VII of the principal Act, the following Chapter shall be inserted, namely:—

**CHAPTER VIIA**

**REFUNDS**

33A. *Refunds.*—(1) Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee the Gift-tax Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf.

(2) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the Gift-tax Officer is of the opinion that the grant of refund is likely to adversely affect the revenue, the Gift-tax Officer may, with the previous approval of the Commissioner withhold the refund till such time as the Commissioner may determine.

(3) Where a refund is due to the assessee in pursuance of an order referred to in sub-section (1) and the Gift-tax Officer does not grant the refund within a period of six months from the date of such order, the Central Government shall pay to the assessee simple interest at four per cent per annum on the amount of refund due from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted.

(4) Where a refund is withheld under the provisions of sub-section (2), the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due as a result of the appeal or further proceedings for a period commencing after the expiry of six months from the date of the order referred to in that sub-section to the date the refund is granted.

(5) Where under any of the provisions of this Act, a refund is found to be due to any person, the Gift-tax Officer, Appellate Assistant Commissioner or Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section.”.

26. *Substitution of new section for section 34.*—For section 34 of the principal Act, the following section shall be substituted, namely:—

“34 *Rectification of mistakes.*—(1) With a view to rectifying any mistake apparent from the record—

(a) the Gift-tax Officer may amend any order of assessment or of refund or any other order passed by him;

(b) the Appellate Assistant Commissioner may amend any order passed by him under sub-section (1) of section 17 or under section 22;

(c) the Inspecting Assistant Commissioner may amend any order passed by him under sub-section (3) of section 17;

(d) the Commissioner may amend any order passed by him under sub-section (1) of section 17 or under section 24;

(e) the Appellate Tribunal may amend any order passed by it under sub-section (1) of section 17 or section 23 or section 25.”.

(2) Subject to other provisions of this section, the authority concerned

- (a) may make an amendment under sub-section (1) of its own motion; and
- (b) shall make such amendment for certifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the Appellate Assistant Commissioner or the Appellate Tribunal by the Gift-tax Officer also.

(3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(4) Where an amendment is made under this section, an order shall be passed in writing by the Gift-tax authority concerned.

(5) Subject to the provisions of sub-section (2) of section 33, where any such amendment has the effect of reducing the assessment, the Gift-tax Officer shall make any refund which may be due to such a person.

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the Gift-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 31 and the provisions of this Act shall apply accordingly.

(7) No amendment under this section shall be made after the expiry of four years from the date of the order sought to be amended.

27. *Amendment of section 35.*—In section 35 of the principal Act,

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to any gifts chargeable to tax which is false and which he either knows to be false or does not believe to be true, he shall, on conviction before a Magistrate, be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.”;

(ii) for the *Explanation*, the following *Explanation* shall be substituted, namely:

“Explanation. For the purposes of this section, ‘Magistrate’ means a Presidency Magistrate or a Magistrate of the first class.”.

28. *Substitution of new section for section 36.*—For section 36 of the principal Act, the following section shall be substituted, namely:

“36. *Power regarding discovery, production of evidence, etc.*—

(1) The Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or document at the place or time, the authority empowered to issue such summons may impose upon him such fine not exceeding five hundred rupees as it thinks fit, and fine so levied may be recovered in the manner provided in Chapter VII.”.

29. *Amendment of section 38.* To section 38 of the principal Act, the following proviso shall be added, namely:

“Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be reheard.”.

30. *Substitution of new section for section 39.*—For section 39 of the principal Act, the following section shall be substituted, namely:

“39. *Computation of period of limitation.* In computing the period of limitation prescribed for an appeal or an application under this Act, the day on which the order complained of was served and if the assessee was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order, shall be excluded.”.

31. *Amendment of section 40.*—In section 40 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) After a finding of total partition has been recorded by the Gift-tax Officer under section 20 in respect of any Hindu family, notices under this Act in respect of the gifts made by the family shall be served on the person who was the last manager of the Hindu family, or if such person is dead, then on all surviving adults who were members of the Hindu family immediately before the partition.

(4) Where a firm or other association of persons is dissolved, notices under this Act in respect of the gifts made by the firm or association may be served on any person who was a partner (not being a minor) or member of the association, as the case may be, immediately before its dissolution.”.

32. *Substitution of new section for section 41.*—For section 41 of the principal Act, the following section shall be substituted, namely:—

“41. *Prohibition of disclosure of information.*—The provisions of sections 137 and 280 of the Income-tax Act shall apply to the disclosure of particulars contained in all accounts or in relation to statements, documents, evidence or affidavits given, produced or obtained in connection with or in the course of any proceedings under this Act, as they apply to or in relation to similar particulars under that Act, subject to the modification that the reference to any income-tax authority in clause (iv) of sub-section (3) of section 137 of that Act shall be construed as a reference to any Gift-tax authority.”.

33. *Amendment of section 41A.*—In section 41A of the principal Act, in sub-section (3), after clause (i), the following clause shall be inserted, namely:—

“(ia) in the case of an assessee mentioned in clause (a) of sub-section (1) or in clause (b) of sub-section (2), who presented an appeal under sub-section (1) of section (23) against the order of penalty passed by the Inspector Assistant Commissioner under sub-section (3) of section 17, until the appeal is disposed of by the Appellate Tribunal.”.

34. *Substitution of new section for section 43.*—For section 43 of the principal Act, the following section shall be substituted, namely:—

“43. *Appearance before Gift-tax authorities by authorised representatives.*—An assessee who is entitled to or required to attend before any Gift-tax authority or the Appellate Tribunal in connection with any proceeding under this Act, except where he is required under this Act to attend in person, may attend by a person who would be entitled to represent him before any Income-tax authority or the Appellate Tribunal under section 288 of the Income-tax Act.”.

35. *Amendment of section 45.*—In section 45 of the principal Act, in clause (e), for the words, brackets and figures “clause (i) of sub-section 3 of section 4”, the word and figure “section 11” shall be substituted.

36. *Amendment of section 46.*—In section 46 of the principal Act for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The Central Government shall cause every rule made under this Act to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modifications in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form be of effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

Assented to on 13-12-62.

#### THE TAXATION LAWS (AMENDMENT) ACT, 1962

ACT NO. 54 OF 1962

AN

ACT

further to amend the Income-tax Act, 1961 and the Wealth-tax Act 1957

Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Taxation Laws (Amendment) Act, 1962.

2. *Amendment of section 2.*—In section 2 of the Income-tax Act, 1961 (43 of 1961), (hereinafter referred to as the Income-tax Act), in clause (14), after sub-clause (iii), the following sub-clause shall be inserted, namely:

“(iv) 6-1/2 per cent Gold Bonds 1977 issued by the Central Government.”.

*Amendment of section 88.*—In section 88 of the Income-tax or sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Subject to the provisions of this section, the assessee shall be entitled to a deduction from the amount of income-tax on his total income with which he is chargeable for any assessment year of an amount equal to the income-tax calculated at the average rate of income-tax on any sums paid by him in the previous year—

- (i) as donations to the National Defence Fund set up by the Central Government; or
- (ii) as donations to any other fund or any institution to which this section applies; or
- (iii) as donations to Government or to any local authority made on or after the 1st April, 1960, to be utilised for any charitable purpose.”

in section (3), after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that were any sum paid during the previous year includes any donation to the National Defence Fund set up by the Central Government the amount covered by the donation shall be excluded in calculating the limits specified in this sub-section.”;

in sub-section (5), for the words “only to donations to an institution or fund established in India for the charitable purpose which”, the following shall be substituted, namely:—

“to donations to any institution or fund referred to in clause (ii) of sub-section (1), only if it is established in India for a charitable purpose and if it”.

*Amendment of section 193.*—To section 193 of the Income-tax, the following proviso shall be added, namely:—

“Provided that no tax shall be deducted from any interest payable on 4-1/4 per cent National Defence Bonds, 1972 or 6-1/2 per cent Gold Bonds, 1977, where any such Bonds are held by an individual, not being a non-resident, and in the case of the Gold Bonds, the holder thereof makes a declaration in writing before the person responsible for paying the interest that the total nominal value of the Gold Bonds held by him including the Gold Bonds, if any, held on his behalf by any other person did not exceed ten thousand rupees at any time during the period to which the interest relates.”.

*Amendment of section 5 of Act 27 of 1957.*—In section 5 of the Income-tax Act, 1957, in sub-section (1), after clause (xvi), the following clause shall be inserted, namely:—

“(xvii) 6-1/2 per cent Gold Bonds, 1977;”;

(ii) in sub-section (2), for the word, brackets and figures “clause (xvi)”, the words, brackets and figures “clause (xvi) or clause (xvii)” shall be substituted.

Assented to on 13-12-1962.

### THE MANIPUR (SALES OF MOTOR SPIRIT AND LUBRICANTS) TAXATION ACT, 1962

(ACT NO. 55 OF 1962)

#### AN ACT

Consolidate and amend the law relating to the levy of a tax on sales of motor spirit and lubricants in the Union territory of Manipur.

It enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

*Short title, extent and commencement.*—(1) This Act may be called the Manipur (Sales of Motor Spirit and Lubricants) Taxation Act, 1962.

(2) It extends to the whole of the Union territory of Manipur. It shall come into force on such date as the Chief Commissioner, by notification in the Official Gazette, appoint.

*Definitions.*—In this Act, unless the context otherwise requires,—

(1) “Chief Commissioner” means the Chief Commissioner of Manipur;

(2) “Commissioner” means the Commissioner appointed under section 4;

(3) “crude oil” means petroleum in its natural state;

(4) “dealer” means any person who sells taxable goods manufactured, made or processed by him in, or brought by him into, the Union territory from any place outside that territory for the purpose of sale in that territory;

*Planation.*—The manager or agent of a dealer who resides outside the Union territory and sells taxable goods brought by him into that territory from any place outside that territory, shall, in respect of such business, be a dealer for the purposes of this Act;

(e) “lubricant” means any form of oil or other lubricating substance primarily used for lubricating the internal machinery or the external parts and fittings of motor vehicles, stationary internal combustion engines, steam turbines or engines, power pumps, refrigerators, dynamos and other machinery and shall include all forms of greases, mineral jellies, spindle oils, cutting oils and hydraulic brake fluids;

(f) “motor spirit” means any substance which by itself or in admixture with other substances in ordinarily used directly or indirectly to provide reasonably efficient fuel for automotive or stationary internal combustion engines, and includes petrol, diesel oil and other internal combustion oils but does not include kerosene, furnace oil, coal or charcoal;

(g) “person” includes a Department of Government and a Hindu Joint Family;

(h) “petrol” means dangerous petroleum as defined in the Petroleum Act, 1934 (30 of 1934);

(i) “prescribed” means prescribed by rules made under this Act;

(j) “sale” with all its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or deferred payment or any other valuable consideration;

(k) “taxable goods” means such goods as are specified in sub-section (1) of section 3;

(l) “Union territory” means the Union territory of Manipur.

*3. Levy of tax.*—(1) There shall be levied and collected from every dealer a tax on all sales effected by him of the following goods at such rates as may be fixed by the Central Government, from time to time, by notification in the Official Gazette, not exceeding the rates specified below:—

(i) Motor spirit (except diesel oil and internal combustion oils other than petrol). eight naya paise per litre.

(ii) lubricant nine naya paise per litre.

(iii) diesel oil and internal combustion oils other than petrol. seven naya paise per litre.

(iv) crude oil one naya paise per litre.

(2) Every notification under sub-section (1) shall also be published in the Manipur Gazette.

(3) Nothing in sub-section (1) shall be deemed to render any dealer liable to tax on the sale of taxable goods where such sale takes place:—

(i) outside the Union territory;

(ii) in the course of the import into or export out of the territory of India; or

(iii) in the course of the inter-State trade or commerce as laid down in section 3 of the Central Sales Tax Act, 1956 (74 of 1956).

(4) For the purposes of sub-section (1), any shortage in excess of one per cent of the quantities of each consignment of motor spirit received into stock by a dealer for sale shall, unless the contrary is proved, be presumed to be due to sale, and the tax shall be levied and collected from the dealer accordingly.

*4. Taxing authorities.*—(1) The Chief Commissioner may, for carrying out the purposes of this Act, appoint a Commissioner of Taxes, and such other persons to assist him as he thinks fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

*5. Registration of dealers.*—(1) Every dealer shall, within such time as may be prescribed for the purpose, make an application for registration under this Act to the Commissioner, and every such application shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(2) Where a dealer has more than one place of business whether in the same town or village or in different towns or villages, he shall apply for registration and obtain a separate registration certificate in respect of each such place of business.

(3) If the Commissioner is satisfied that the application is in conformity with the provisions of this Act and the rules made thereunder, he shall register the applicant and grant him a certificate of registration in the prescribed form which shall specify the class or classes of goods in which the dealer carries on business, and such other particulars as may be prescribed for the purposes of sub-section (1) of section 3.

(7) A certificate of registration granted under this section may either on the application of the dealer to whom it has been granted or, where no such application has been made, after due notice to the dealer, be amended by the Commissioner if he is satisfied that by reason of the dealer having changed the name, place or nature of his business or the class or classes of goods in which he carries on business or for any other reason, the certificate of registration granted to him requires to be amended.

(5) No dealer shall carry on business in taxable goods without, or otherwise than in accordance with the terms of, a certificate of registration.

6. *Cancellation of registration certificate.*—(1) The Commissioner may cancel any certificate of registration granted to a dealer, if—

- (a) he has ceased to carry on business; or
- (b) any tax payable under section 3 is not duly paid by him; or
- (c) there is any breach of any of the provisions of this Act, the rules made thereunder or the conditions subject to which the registration certificate has been granted; or
- (d) he has been convicted under the provisions of this Act:

Provided, that no order shall be passed—

- (i) under clause (a) unless the dealer was served with a notice, or
- (ii) under clause (b), clause (c) or clause (d), unless the dealer was given a reasonable opportunity of being heard:

Provided further, that such cancellation shall not absolve the dealer from his liability to pay tax and other dues under this Act, nor bar other action as may be taken against him under this Act.

(2) The dealer shall not be entitled to any compensation for any loss or damage directly or indirectly suffered by him by reason of cancellation of the certificate under sub-section (1).

7. *Returns.*—Every person registered under this Act shall submit such return or returns at such intervals and to such authority as may be prescribed.

8. *Assessment.*—(1) If the Commissioner is satisfied that a return furnished under section 7 in respect of any period is correct and complete, he shall, by an order in writing, assess the tax payable by the dealer on the basis of such return.

(2) If the Commissioner is not so satisfied he shall serve on the dealer a notice requiring him on the date, and at the hour and place specified therein, either to attend in person or to produce or cause to be produced any evidence on which he may rely in support of his return.

(3) On the day specified in the notice under sub-section (2) or as soon as thereafter as may be, the Commissioner, after hearing such evidence as he may require, shall, by an order in writing, assess the tax payable by the dealer.

(4) If a dealer fails to make a return as required by section 7 or having made the return fails to comply with any of the terms of the notice under sub-section (2), the Commissioner shall, by order in writing assess to the best of his judgement the tax payable by the dealer:

Provided that before making assessment the Commissioner may allow the dealer such further time as he thinks fit to make the return or comply with the terms of the notice issued under sub-section (2).

9. *Cancellation of assessment.*—Where a dealer, in the case of an assessment completed under sub-section (4) of section 8 satisfies the Commissioner, within one month from the date of service of a notice of demand as hereinafter provided, that he was prevented by sufficient cause from making the return required by section 7 or that he had not been served with the notice under sub-section (2) of section 8 or that he had not had a reasonable opportunity to comply, or was prevented by sufficient cause from complying with the terms of the notice, the Commissioner shall cancel the assessment and make a fresh assessment in accordance with the provisions of section 8.

10. *Assessment and penalty in case of evasion by unregistered persons.*—If on information or otherwise, the Commissioner is satisfied that any person while being liable to pay tax under this Act has failed to apply for registration and to pay the tax, he shall, after giving the person a reasonable opportunity of being heard, assess, to the best of his judgement, the amount of tax, if any, due from him and the Commissioner may also direct that, in addition to the amount so assessed, a sum not exceeding that amount shall be recovered from the defaulter by way of penalty.

11. *Assessment and penalty in case of evasion by registered persons.*—If on information or otherwise, the Commissioner is satisfied that any person registered under this Act has not paid the amount of tax due from him or a part thereof for any period, he may proceed against such person in the manner laid down in section 10.

12. *Power to grant exemption from tax.*—(1) If the Chief Commissioner is satisfied that it is necessary in the public interest so to do, he may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions as may be specified in the notification, any class of dealers from the payment of the whole or any part of tax, in respect of any taxable goods.

(2) If the Chief Commissioner is satisfied that it is necessary in the public interest so to do, he may, by special order in each case, exempt any dealer from the payment of tax under circumstances of exceptional nature to be stated in such order, in respect of any taxable goods.

13. *Penalties.*—(1) If the Commissioner, in the course of any proceedings under this Act, is satisfied that any dealer—

- (a) has, without reasonable cause, failed to furnish the return which he was required to furnish under section 7 or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required, or
- (b) has, without reasonable cause, failed to comply with a notice

under sub-section (2) of section 8, or

- (c) has concealed the particulars of his sales or deliberately furnished incorrect particulars of such sales, or

(d) has evaded the liability to pay tax,

the Commissioner may direct that such dealer shall, in addition to any tax payable by him, pay, by way of penalty,—

- (i) in a case referred to in clause (a) or clause (b), a sum not exceeding one and a half times the tax;
- (ii) in a case referred to in clause (c), a sum not exceeding one and a half times the amount of the tax which would have been avoided if the particulars of his sales had been accepted as correct;
- (iii) in a case referred to in clause (d), a sum not exceeding one and a half times the amount of the tax sought to be evaded by him.

(2) No order under sub-section (1) shall be made unless the dealer was given a reasonable opportunity of being heard.

14. *Appeal.*—(1) Any dealer objecting to an order of assessment or penalty passed under this Act, may within thirty days from the date on which the order was served on him, appeal to the prescribed authority against such assessment or penalty:

Provided that the authority may admit the appeal after the expiration of thirty days, if such authority is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause, the appeal could not be filed within time.

(2) Any person desirous of appealing against an order of assessment or penalty passed under this Act shall, pending the appeal, deposit with the Commissioner the tax demanded or the penalty levied:

Provided that where in any particular case, the prescribed authority is of opinion that the deposit of tax demanded or penalty levied will cause undue hardship to the appellant, it may in its discretion dispense with such deposit either unconditionally or subject to such conditions as it may deem fit.

(3) Every appeal under sub-section (1) shall be presented in the prescribed form and shall be verified in the prescribed manner.

(4) The prescribed authority shall fix a day and place for hearing of the appeal, and may from time to time adjourn the hearing and make or cause to be made, such further inquiry as it may deem necessary.

(5) In disposing of an appeal under sub-section (1), the prescribed authority may:—

- (a) confirm, reduce, enhance or annul the assessment, or
- (b) set aside the assessment and direct afresh assessment after such inquiry as may be ordered, or

(c) confirm, reduce or annul the order imposing a penalty.

(6) Every order passed in appeal under this section shall, subject to the provisions of section 16, be final.

15. *Powers of revision of Commissioner.*—The Commissioner may, of his own motion or on application, call for and examine the records of any proceedings under this Act before any person appointed under section 4 to assist the Commissioner and revise after such inquiry as he may deem necessary any order passed in such proceedings:

Provided that no order prejudicial to a dealer shall be passed under this sub-section without giving him a reasonable opportunity of being heard:

Provided further that the Commissioner shall not revise any order under this section in any case—

- (a) where an appeal against the order lies to the prescribed authority, the time within which such appeals can be made has not expired or the dealer has not waived his right to appeal to the prescribed authority;

(b) where the order is the subject of an appeal before the prescribed authority;

(c) where the application is made by an aggrieved dealer for such revision unless the application is made within ninety days from the date on which the order was served on the applicant;

(d) where the order is sought to be revised by the Commissioner of his own motion, if such order was made more than two years previously.

16. *Revision by the Chief Commissioner.*—(1) The Chief Commissioner may, on the application of a dealer aggrieved by any order passed under section 14 or section 15, annul or modify such order:

Provided that no order enhancing any tax or penalty shall be passed under this section.

(2) An application under sub-section (1) shall be made within ninety days from the date on which the order was served on the applicant:

Provided that the Chief Commissioner may admit the application after the expiration of ninety days if he is satisfied that for reasons beyond the control of the applicant or for any other sufficient cause, the application could not be filed within time.

17. *Payment of tax, etc.*—(1) Any sum due under this Act shall be payable within thirty days of the date of service of the notice demanding the same.

(2) If any person fails to pay the sum due within the time specified in sub-section (1), the Commissioner may impose a penalty not exceeding fifty per cent of the sum demanded from him.

18. *Recoveries.*—Any sum due under this Act shall be recoverable as an arrear of land revenue.

19. *Returns.*—The Commissioner shall, in the prescribed manner, fund to a dealer any sum paid by such dealer in excess of the sum due from him under this Act, either by cash payment or at the discretion of the Commissioner by set off against any other sum due from him.

20. *Maintenance of accounts.*—Every registered dealer on whom notice has been served to furnish return under the provisions of this Act, shall keep a true account of taxable goods produced, made or processed by him or brought by him into the Union territory from any place outside that territory for the purpose of sale in that territory, and of sales.

21. *Powers to order production of accounts, etc.*—Subject to such conditions and restrictions as may be prescribed, the Commissioner may, for the purposes of this Act, require any dealer to produce before him any accounts, registers, vouchers or other documents relating to the production, making, processing, purchase or sale of taxable goods or matters connected therewith.

22. *Power for entry, inspection, search and seizure.*—The Commissioner may—

- (a) inspect at all reasonable time all accounts and vouchers relating to the stock, purchases, sales and deliveries of taxable goods kept by manufacturers, and dealers and the stock of taxable goods with them;
- (b) enter and search, at any time, by day or by night any building, vessel, vehicle or place in which he has reason to believe that any taxable goods liable to confiscation under this Act are kept or concealed;
- (c) seize any taxable goods or any other article which he has reason to believe is liable to confiscation under this Act.

23. *Offences and penalties.*—Whoever—

- (a) carries on business as a dealer and acts in contravention of any of the provisions of this Act; or
- (b) fails, without reasonable cause, to submit in due time any return as required by or under the provisions of this Act, or submits false return; or
- (c) fails, when required by or under the provisions of this Act, to keep accounts or records of sales; or
- (d) fails, when required by or under the provisions of this Act, to produce any accounts, evidence or documents or to furnish any information; or
- (e) fails or neglects to comply with any requirement under the provisions of this Act; or
- (f) knowingly produces false accounts, registers or documents, or knowingly furnishes incorrect information; or
- (g) fraudulently or wilfully evades the payment of any tax due under this Act, or conceals his liability to such tax; or
- (h) fails to pay within the time allowed any tax or penalty due from him; or
- (i) prevents or obstructs inspection or entry by any officer acting under the provisions of this Act; or
- (j) demands or charges from any purchaser sales tax as such at a rate higher than that payable under this Act;

all be punishable with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

24. *False statement in declaration.*—Whoever makes a statement a verification or declaration in connection with any proceedings under this Act which is false and which he either knows or believes to be false or does not believe to be true, shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

25. *Search and seizure how made.*—The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), shall apply to any search or seizure made under this Act.

26. *Power of investigation.*—(1) Every officer, not below such rank as may be prescribed, shall within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(2) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898 (5 of 1898), upon an officer in charge of a police station for the investigation of a cognizable offence.

27. *Punishment for vexatious search, etc.*—Any officer or person exercising powers under this Act, who—

- (a) without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, vessel, vehicle or place; or

(b) vexatiously or unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act; or

(c) vexatiously and unnecessarily detains or searches any person; shall be punishable with fine which may extend to five hundred rupees.

28. *Things liable to confiscation.*—Whenever an offence punishable under this Act is committed, the taxable goods or any other article in respect of which the offence has been committed shall be liable to confiscation.

29. *Power to compound offences.*—(1) Subject to such conditions as may be prescribed, the Commissioner may, either before or after the institution of criminal proceedings under this Act, accept from the person who has committed or is reasonably suspected of having committed an offence under this Act or the rules made thereunder, by way of composition of such offence—

- (a) where the offence consists of the failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees or double the amount of the tax recoverable, whichever is greater; and
- (b) in any other case a sum of money not exceeding one thousand rupees in addition to the tax recoverable.

(2) On the payment of such sum of money and the tax, if any, payable under section 3 to the Commissioner, such person shall be discharged, the property seized, if any, shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

30. *Cognizance of offence.*—No court shall take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the first class shall try any such offence.

31. *Protection of persons acting in good faith and limitation of suits and proceedings.*—(1) No suit, prosecution or other legal proceedings shall be instituted against any officer of the Government for anything done or intended to be done in good faith under this Act or the rules made thereunder.

(2) No suit shall be instituted against the Government and no suit, prosecution or other proceeding shall be instituted against any officer of the Government in respect of anything done or intended to be done, under this Act unless the suit, prosecution or other proceeding is instituted within four months from the date of the act complained of.

32. *Delegation of Commissioner's powers.*—Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by notification in the Official Gazette, delegate any of his powers under this Act to any person appointed under section 4 to assist him.

33. *Computation of the period of limitation.*—In computing the period of limitation prescribed for an appeal or revision, the day on which the order complained of was served and the time requisite for obtaining a certified copy of such order, shall be excluded.

34. *Information to be furnished regarding change of business.*—If any dealer—

- (a) sells or otherwise disposes of his business or any part of his business or any place of business or effects or comes to know of any other change in the ownership of the business, or
- (b) discontinues his business, or changes his place of business or opens a new place of business, or
- (c) changes the name or nature of his business,

he shall within the prescribed time inform the Commissioner accordingly, and if any such dealer dies, his legal representative shall in like manner inform the Commissioner.

35. *Services of order, notices, etc.*—Any order passed or notice issued under this Act, shall be served—

- (a) by tendering the order or notice or sending it by registered post to the dealer for whom it is intended or to his agent; or
- (b) if the order or notice cannot be served in the manner provided in clause (a), by affixing it on the outer door or some other conspicuous part of the last known premises of the dealer.

36. *Power to make rules.*—(1) The Chief Commissioner may, subject to the condition of previous publication, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for—

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) the recovery of the tax leviable under this Act;
- (c) the circumstances and the manner in and the conditions under which refunds may be made and for the cancellation of erroneous refunds;
- (d) the maintenance of records and books and the submission of returns and the form of such records, books and returns;

- (e) the authority to which appeals against any order under this Act may be preferred and the fees to be charged in connection therewith;
- (f) applications for revisions under this Act and the fees to be charged in connection therewith;
- (g) the issue of notices under this Act;
- (h) the fees, if any, for certificates granted under this Act.

(3) Rules made under this Act may provide that a breach of any of them shall be punishable with fine not exceeding one thousand rupees or with imprisonment not exceeding three months or with both, and when the offence is a continuing offence, with a daily fine which may extend to one hundred rupees for every day during which the offence continues.

(4) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

37. *Repeal of Assam Act 4 of 1939 as extended to Manipur.*—The Assam Sales of Motor Spirit and Lubricants Taxation Act, 1939, as extended to Manipur shall stand repealed:

Provided that such repeal shall not affect—

- (a) the previous operation of the said Act or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid:

Provided further that anything done or any action taken (including any appointment or delegation made, notification, instruction or direction issued, certificate of registration granted) under the Act hereby repealed shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

Assented to on 14-12-1962.

THE STATE-ASSOCIATED BANKS (MISCELLANEOUS PROVISIONS) ACT, 1962  
ACT NO 56 OF 1962  
AN  
ACT

Further to amend the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, and the Bankers' Books Evidence Act, 1891, and to provide for the winding up of certain minor State-associated banks and for matters connected therewith.

Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the State Associated Banks (Miscellaneous Provisions) Act, 1962.

(2) Section 3, except clauses (ii), (iv) and (vii) thereof, shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and the rest of this Act shall come into force at once.

2. *Amendment of Act 23 of 1955.*—In the State Bank of India Act, 1955—

(i) in sub-section (3) of section 31, following provision shall be inserted at the end, namely:—

“Provided that nothing contained in this sub-section shall apply to such director by reason only of his being—

- (i) a shareholder (other than a director) holding not more than two per cent of the paid-up capital in any public company as defined in the Companies Act, 1956, (1 of 1956) or any corporation established by or under any law for the time being in force in India or any co-operative society, with which or to which the State Bank has entered into or made, or proposes to enter into or make, a contract, loan, arrangement or proposal; or
- (ii) a director *ex-officio* of the State Bank or a director of a subsidiary bank.”;

(ii) in section 34,

(a) in sub-section (5), after the words “without security”, the words “or without security of a description authorised by this Act” shall be inserted;

(b) in sub-section (6) —

(i) for the word and figures “section 33”, the words “this Act” shall be substituted;

- (ii) the words “interest in” shall be omitted; and
- (iii) in section 50, in clause (g) of sub-section (2), after the words “without security” in both the places where they occur, the words “or without security of a description authorised by this Act” shall be inserted.

3. *Amendment of Act 38 of 1959.*—In the State Bank of India (Subsidiary Banks) Act, 1959—

- (i) in section 2, sub-clause (iii) of clause (b), sub-clause (iii), of clause (c) and sub-clause (iii) of clause (d) shall be omitted;
- (ii) in Chapter II, for the existing heading, the following heading shall be substituted, namely:—

“CONSTITUTION OF NEW BANKS AND CHANGE OF NAME OF ANY SUBSIDIARY BANK”;

- (iii) in section 3, clause (c) shall be omitted;
- (iv) after section 3, the following section shall be inserted, namely:—

“3A. *Change of name of a subsidiary bank.*—(1) The Central Government after consulting the State Bank and the Reserve Bank may, by notification in the Official Gazette, direct that the name of any subsidiary bank shall, with effect from such date as may be specified in this behalf, be changed to any other name and thereupon any reference to that subsidiary bank in this Act or any other law for the time being in force or in any contract, instrument or document shall be construed as a reference to that bank by its new name.

- (2) The Change in the name of a subsidiary bank under sub-section (1) shall not affect any rights or obligations of that bank or render defective any legal proceedings by or against it, and any legal proceedings which might have been continued or commenced by or against that bank by its former name may be continued by or against it by its new name.”;

(v) in section 12, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) For the purposes of this section,—

(a) “corresponding new bank” means in relation to the Bank of Jaipur Limited, the institution constituted under section 3 as the State of Bikaner;

(b) “existing bank” includes the Bank of Jaipur Limited;

(vi) in section 13, for sub-section (13), the following sub-section shall be substituted, namely:—

“(13) For the purposes of this section,—

(a) “corresponding new bank” does not include the State Bank of Patiala and means in relation to the Bank of Jaipur Limited the institution constituted under section 3 as the State Bank of Bikaner;

(b) “existing bank” includes the Bank of Jaipur Limited, but does not include the Bank of Patiala.”;

(vii) in section 34, for the proviso to sub-section (5), the following proviso shall be substituted, namely:—

“Provided that nothing contained in this sub-section shall apply to such director by reason only of his being—

(i) a shareholder (other than a director) holding not more than two per cent of the paid-up capital in any public company as defined in the Companies Act, 1956 (1 of 1956), or any corporation established by or under any law for the time being, in force in India or any co-operative society, with which or to which the subsidiary bank has entered into or made, or proposes to enter into or make, a contract, loan, arrangement or proposal; or

(ii) a director of the State Bank or of any other subsidiary bank being a director under clause (a) or clause (e) of sub-section (1) of section 25 or being an officer of the Reserve Bank or the State Bank nominated under clause (b) or clause (c) of that sub-section.”;

(viii) in section 36, sub-sections (3) and (4) shall be omitted; and

(ix) for section 59, the following section shall be substituted, namely:—

“59. *Construction of references to existing banks.*—(1) For the purposes of sections 45, 49, 55, 58 and the First Schedule, the expression ‘existing bank’ shall include the Bank of Jaipur Limited.

(2) Except as otherwise provided in any general or special order made by the Central Government, any reference in any law, other than this Act, or in any contract of other instrument—

(a) to an existing bank, shall be construed as a reference to the corresponding new bank;

(b) to the Bank of Jaipur Limited, shall be construed as a reference to the State Bank of Bikaner.”.

4. *Amendment of Act 18 of 1891.*—In the Bankers' Books Evidence Act, 1891, in section 2—

(i) for clause (1), the following clauses shall be substituted, namely:—

(1) “company” means any company as defined in section 3

of the Companies Act, 1956 (1 of 1956), and includes a foreign company within the meaning of section 591 of that Act;

(iA) "corporation" means any body corporate established by any law for the time being in force in India and includes the Reserve Bank of India, the State Bank of India and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(ii) for sub-clause (a) of clause (2), the following clause shall be substituted, namely:—

"(a) any company or corporation carrying on the business of banking;"

5. *Provisions in respect of the State Bank, Dholpur.*—(1) Notwithstanding anything to the contrary contained in any other law in any order or other instrument—

(a) the Central Government may by order appoint one or more officers to take over the management of the Dholpur bank or to wind up its affairs and distribute its assets and any expenditure incurred in connection with such appointment, management, winding up or distribution shall be payable by that bank;

(b) the principal civil court of original jurisdiction in the district in which the Dholpur bank's head office is situated shall have exclusive jurisdiction to entertain and decide any claim made by or against the Dholpur bank or any question whatever, whether of law or of fact, which may relate to or arise in the course of the winding up of that bank, whether such claim or question has accrued or arisen before or accrues or arises after the date of the winding up order, and any suit or other legal proceeding, whether of a civil or criminal nature, relating to any such claim or question and pending in any other court at the commencement of this Act shall not be proceeded with except in accordance with this section;

(c) in regard to the admissibility of the entries in the books of account as evidence in the course of the proceedings for the winding up of the bank, the settlement of the list of debtors of the bank, the passing of orders for the payment of the amounts due by the said debtors, the execution of the said orders or any other orders or decrees of the court, the priority of the claims on the bank, the making of preferential payments and the discharge of the other liabilities of the bank and any other incidental or connected matters, the law relating to the winding up of banking companies, as in force for the time being, shall apply as if the Dholpur bank were a banking company;

(d) the period of limitation for any suit or application relating to any payment due to the Dholpur bank which has accrued before or may accrue on or after the date of the first appointment of the officer in charge of winding up of the bank shall be twelve years from the date of the accrual of the claim or five years from the date of such first appointment of the officer aforesaid, whichever may end later; and

(e) after the repayment of all the deposit liabilities and any other amounts due to be paid by the bank including the amounts due to the Government of Rajasthan, the remaining assets, if any, of the bank shall be utilised, as far as may be, for the purposes and objects specified in the State Bank, Dholpur Act, 1915, and other relevant documents.

2) In this section, "Dholpur bank" means the bank known as Dholpur State Bank and governed at the commencement of this section by the State Bank, Dholpur Act, 1915.

*Amendment of the State Bank of Kurundwad (Junior) Act, 1933.*—In the State Bank of Kurundwad (Junior) Act, 1933,—

a) in section 22, for the words "The Indian Companies Act as applied to the State," the words and figures "The Companies Act, 1956" shall be substituted; and

b) after section 22, the following section shall be inserted, namely:—

22A. *Special provision for winding up of the bank.*—No provision of law relating to the winding up of companies or corporations shall apply to the bank and—

(i) the provisions of section 5 of the State-Associated Banks (Miscellaneous Provisions) Act, 1962, except the provisions of clauses (d) and (e) of sub-section (1) thereof, and

(ii) the provisions of section 45-O of the Banking Companies Act, 1949 (10 of 1949),

shall apply to or in relation to the bank as if references to the court or references to the principal civil court of original jurisdiction in which the bank's head office is situated and references to the Dholpur bank were references to the State Bank of Kurundwad (Junior) Ltd.;"

Assented to on 15-12-1962.

3 DELHI MOTOR VEHICLES TAXATION ACT, 1962  
(ACT NO 57 OF 1962)

AN  
ACT

to impose a tax on motor vehicles in the Union territory of Delhi and for other matters connected therewith.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Delhi Motor Vehicles Taxation Act, 1962.

(2) It extends to the whole of the Union territory of Delhi.

(3) It shall come into force on such date as the Chief Commissioner may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Chief Commissioner" means the Chief Commissioner of Delhi;

(b) "Delhi" means the Union territory of Delhi;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "quarter" means a period of three months commencing on the first day of April, the first day of July, the first day of October or the first day of January in each year;

(e) "registered owner" means the person in whose name a motor vehicle is registered under the Motor Vehicles Act, 1939; (4 of 1939)

(f) "tax" means the tax levied under this Act;

(g) "taxation authority" means any person or authority appointed by the Chief Commissioner by notification in the Official Gazette to exercise the powers and perform the duties conferred or imposed upon a taxation authority by or under this Act;

(h) "token" means a ticket to be displayed on a motor vehicle as an indication that the tax has been duly paid or that no tax is payable;

(i) "year" means the financial year;

(j) all words and expressions used, but not defined in this Act, and defined in the Motor Vehicles Act, 1939 (4 of 1939), shall have the meanings respectively assigned to them in that Act.

3. *Levy of tax.*—Subject to the other provisions of this Act, on and from the commencement of this Act, there shall be levied and collected on all motor vehicles used or kept for use in Delhi, a tax at the rate specified in Schedule I.

4. *Declaration and payment of tax.*—(1) Every registered owner or person having possession or control of a motor vehicle used or kept for use in Delhi shall fill up and sign a declaration in the prescribed form stating the prescribed particulars and shall deliver the same to the taxation authority within the prescribed time.

(2) The tax to which a registered owner or person having possession or control of a motor vehicle appears by such declaration to be liable under section 3 shall be paid by him,—

(a) for a year at the rate specified in Schedule I (hereinafter referred to as the annual rate); or

(b) for one or more quarters, at one-fourth of the annual rate for each quarter; or

(c) once in two months or monthly, in equal instalments at one-sixth or one-twelfth, as the case may be, of the annual rate:

Provided that any broken period in a month shall, for the purpose of levying the tax be considered as a full month.

(3) The tax shall be paid within seven days and in such manner as may be prescribed.

(4) In calculating the tax due for any period less than one year, fraction of a rupee shall be counted as a rupee.

5. *Issue of token.*—(1) When a person pays the amount of tax leviable under section 3 in respect of any motor vehicle or proves to the satisfaction of the taxation authority that no such tax is payable in respect of such vehicle, the taxation authority shall,—

(a) issue to such person a token in the prescribed form specifying therein the period for which such tax has been paid or that no such tax is payable, and

(b) specify in the certificate of registration granted in respect of the vehicle under the Motor Vehicles Act, 1939 (4 of 1939), or in the case of vehicles not registered under that Act, in a certificate in such form as may be prescribed, that the tax has been paid for the period specified under clause (a) or that no tax is payable in respect of that vehicle, as the case may be.

(2) No motor vehicle liable to tax under this Act shall be used or kept for use in Delhi unless the registered owner or the person having possession or control of such vehicle has obtained a valid token in respect of that vehicle, and that token is displayed on the vehicle in the prescribed manner.

6. *Additional declaration.*—(1) When a motor vehicle used or kept for use in Delhi is altered or is proposed to be used in such manner as to render the registered owner or the person who has possession or control of such vehicle liable to the payment of additional tax under section 7, such owner or person shall fill up, sign and deliver in the manner provided in sub-section (2), an additional declaration and shall, along with such additional declaration (accompanied by the certificate of registration in respect of such motor vehicle), pay to the taxation authority an additional tax payable under that section which he appears by such additional declaration to be liable to pay in respect of such vehicle.

(2) The additional declaration shall be in the prescribed form containing the prescribed particulars and shall be delivered to the taxation authority after being duly filled up and signed within the prescribed time. The additional declaration shall indicate clearly also the nature of alteration made in the motor vehicle or, as the case may be, the altered use to which the vehicle is proposed to be put.

(3) On receipt of the additional tax under sub-section (1), the taxation authority shall issue to the registered owner or the person who has possession or control of the vehicle, a fresh token in place of the original token and shall cause an entry of such payment to be made in the certificate of registration.

**7. Liability of additional tax.**—When any motor vehicle in respect of which a tax for any period is payable or has been paid, is altered during such period, or proposed to be used during such period in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or the person who has possession or control of the vehicle, shall, in addition to the tax, if any, due from him for that period, be liable to pay for the unexpired portion of such period since the vehicle is altered or proposed to be used, an additional tax of a sum equal to the difference between the amount of tax payable for such unexpired portion at the higher rate and the rate at which the tax was payable or paid before the alteration or use of the vehicle for that portion; and until such additional tax has been paid, the taxation authority shall not grant a fresh token in respect of the vehicle so altered or proposed to be so used.

*Explanation.*—In calculating the unexpired portion under this section any token period in a month shall be considered as a full month.

**8. Production of certificate of insurance.**—Every registered owner or person having possession or control of a motor vehicle shall, at the time of making payment of the tax, produce before the taxation authority a valid certificate of insurance in respect of the vehicle complying with the requirements of Chapter VIII of the Motor Vehicles Act, 1939. (4 of 1939).

**9. Liability to pay arrears of tax of person succeeding to the ownership, possession or control of motor vehicle.**—(1) If the tax payable in respect of any motor vehicle remains unpaid by any person liable for payment thereof and such person before having paid the tax has transferred the ownership of such vehicle or has ceased to be in possession or control of such vehicle, the person to whom the ownership of the vehicle has been transferred or the person who has possession or control of such vehicle shall be liable to pay the said tax to the taxation authority.

(2) Nothing contained in this section shall be deemed to affect the liability to pay the said tax of the person who has transferred the ownership or has ceased to be in possession or control of such vehicle.

**10. Refund of tax.**—(1) When any person who has paid the tax in respect of a motor vehicle produces before the taxation authority a certificate signed by the registering authority stating that the tax token and the certificate of registration issued in respect of such vehicle have been surrendered on the date specified by the registering authority in his certificate, such person shall, on an application made in that behalf to the taxation authority and subject to such conditions as may be prescribed, be entitled to a refund for each complete month of the period for which such tax has been paid and which is unexpired on the date on which the tax token and the certificate of registration were surrendered, of an amount equal to one-twelfth of the annual tax payable in respect of such vehicle.

(2) When any person has paid the tax in respect of a motor vehicle and the vehicle is removed outside Delhi before the expiry of the period for which the tax has been paid and taxed in another State, such person shall, on an application made in that behalf to the taxation authority and subject to such conditions as may be prescribed, be entitled to a refund for each complete month of the period for which such tax has been paid and during which the vehicle was removed from Delhi, of an amount equal to one-twelfth of the annual tax payable in respect of such vehicle.

**11. Penalty payable when tax not paid.**—When any registered owner or any person who has possession or control of any motor vehicle used or kept for use in Delhi is in default in making a payment of the tax the taxation authority may direct that in addition to the amount of arrears, a sum not exceeding the annual tax payable in respect of such vehicle shall be recovered from him by way of penalty;

Provided that before giving any such direction the registered owner or such person shall be given a reasonable opportunity of being heard.

**12. Arrears of tax and penalty recoverable as arrears of land revenue.**—(1) Any tax due and not paid as provided for by or under this Act and any sum directed to be recovered by way of penalty under section 11 shall be recoverable in the same manner as an arrear of land revenue.

(2) The motor vehicle in respect of which the tax is due or in respect of which any sum has been directed to be recovered as

penalty under section 11, or its accessories may be distrained and sold in pursuance of this section whether or not such vehicle or accessories is or are in the possession or control of the person liable to pay the tax or penalty.

**13. Exemptions.**—(1) Where the registered owner or the person having possession or control of a motor vehicle is an agriculturist and that motor vehicle has been designed for agricultural operations and is used solely for such operations in relation to his own land then, that vehicle shall be exempt from the payment of the tax.

*Explanation.*—For the purposes of this sub-section the expression "agricultural operations" includes,—

(i) tilling, sowing, harvesting, crushing of any agricultural produce or any other similar operation carried out for the purpose of agriculture;

(ii) transport of manure, seeds, insecticides and other like articles required for work in the land from the market to the land; and

(iii) transport of any agricultural produce from the land to the place of storage or from the place of storage to the market.

(2) When the registered owner or the person having possession or control of a motor vehicle has given previous intimation in writing to the taxation authority that the motor vehicle would not be used in any public place for a particular period, being not less than one month, and deposits the certificate of registration of such motor vehicle with the taxation authority and obtains an acknowledgement therefor from that authority, he shall be exempt from the payment of the tax for that period.

(3) Where the Chief Commissioner is of opinion that it is necessary or expedient in the public interest so to do, he may, by notification in the Official Gazette, and subject to such conditions as he may specify in the notification, exempt either totally or partially any class of motor vehicles other than those falling under sub-section (1) or any motor vehicles belonging to any class of persons from the payment of the tax.

**14. Reduction of tax in cases of certain motor vehicles.**—Where the registered owner of a motor vehicle used or kept for use in Delhi is a co-operative society registered under any law relating to co-operative societies for the time being in force the tax payable in respect of that motor vehicle shall be one half of the rates specified in Schedule I, if the taxation authority is satisfied, after such enquiry as it deems fit, that,—

(i) the co-operative society is solely engaged in the business of transport of goods or passengers or both from one place to another in motor vehicles;

(ii) at least seventy-five per cent. of the members of the co-operative society are its employees;

(iii) at least fifty per cent. of the members of the co-operative society are not related to each other; and

(iv) the motor vehicle is used or kept for use exclusively for the purpose of the co-operative society.

*Explanation.*—For the purposes of this section a member shall be deemed to be related to any other member if that member is the husband, wife, brother or sister or any lineal ascendant or descendant of that other member.

**15. Effect of payment of tax in other States with respect to motor vehicles brought into Delhi.**—Where in respect of a motor vehicle the tax payable under the law relating to taxation on motor vehicles in force in any State has been paid in that State for any period and that motor vehicle is brought into Delhi for use during that period, then,—

(i) no tax under this Act shall be payable in respect of that motor vehicle; and

(ii) the token issued in that state in respect of that motor vehicle shall be deemed to be a token issued under this Act, for such period or for a period of ninety days from the date on which the motor vehicle is brought into Delhi, whichever is shorter:

Provided that the registered owner or the person having possession or control of the motor vehicle complies with the provisions of sub-section (1) of section 4.

**16. Appeal.**—(1) Any person who is aggrieved by any order or direction of the taxation authority may file an appeal before such person or authority, in such manner, within such time and on payment of such fees, as may be prescribed.

(2) The appeal shall be heard and decided in such manner as may be prescribed.

(3) Every decision on such appeal shall be final and shall not be called in question in any court of law.

**17. Powers of police officers and other officers.**—Any police officer in uniform, not below the rank of Sub-Inspector or any other officer prescribed in this behalf may—

(a) enter at any time between sunrise and sunset any premises where he has reason to believe that a motor vehicle is kept, or,

(b) require the driver of any motor vehicle in any public place to stop such vehicle and cause it to remain stationary so long as may reasonably be necessary,

for the purpose of satisfying himself that the amount of the tax in respect of such vehicle, has been paid.

*Penalty for incomplete and untrue declaration, etc.—Who-*

divers in respect of a motor vehicle and declaration or additional declaration wherein the particulars required by or under this Act to be therein set forth are not fully and truly stated, or obstructs any officer in the exercise of the powers conferred by clause (a) of section 17 or fails to stop the motor vehicle when required to do so by such officer under clause (b) of that section,

conviction be punishable—

with fine which may extend to a sum equal to the annual tax payable in respect of such vehicle; and in the event of such person having been previously convicted of an offence under this section, with fine which may extend to a sum equal to twice the annual tax payable in respect of such vehicle.

*Other penalties.—*Whoever contravenes any of the provisions of this Act or the rules made thereunder other than those punishable under section 18 shall on conviction be punishable with fine which extend to one hundred rupees and in the event of such person been previously convicted of an offence under this section, which may extend to two hundred rupees.

*Utilization of the proceeds of tax.—*The proceeds of the tax collected under this Act (which shall form part of the Consolidated Fund of India) reduced by the cost of collection as determined by the Central Government shall, if Parliament by appropriation law in this behalf so provides, be paid,—

the Municipal Corporation of Delhi established under section 3 of the Delhi Municipal Corporation Act, 1957 (66 of 1957), and

the New Delhi Municipal Committee established under section 11 of the Punjab Municipal Act, 1911 (Punjab Act of 1911), as extended to Delhi, the performance of their respective functions under the said Act the payment shall be made in such proportion as may be decided.

*Trial of offences.—*No court inferior to that of a magistrate of the second class shall try an offence punishable under this Act.

*Protection for bona fide acts.—*No prosecution, suit or other proceedings shall lie against the taxation authority or any other person for anything in good faith done or intended to be done under this Act.

*Power to make rules.—*(1) The Chief Commissioner may, by the condition of previous publication make rules for the purposes of this Act.

particular and without prejudice to the generality of the said provision, the Chief Commissioner may make rules for the following matters, namely:—

the time within which, and the manner in which, the tax shall be paid;

the form of declaration and additional declaration, particulars to be stated therein and the time within which the declaration or additional declaration shall be delivered under section 4 or section 6, as the case may be;

the form of the tax token and the manner in which the tax token shall be displayed in the motor vehicle under section 5;

the conditions subject to which refund of tax may be allowed under section 10;

the authority before which, the manner in which, the time within which and the fee on payment of which, an appeal may be filed and the manner in which such appeal shall be heard and decided under section 16;

the issue of duplicate tokens and of certified copies of the records of the taxation authority and the fees chargeable therefor;

any other matter which is to be, or may be, prescribed.

Every rule made under this section shall be laid as soon as after it is made before each House of Parliament while it is for a total period of thirty days which may be comprised in one or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, the Houses agree that the rule should not be made, the rule so made shall have effect only in such modified form or be of no effect; so however that any such modification or it shall be without prejudice to the validity of anything done under that rule.

*Repeal.—*(1) On and from the commencement of this Act, specified in Schedule II shall stand repealed.

The repeal of the said Acts by sub-section (1) shall not affect the previous operation of the said Acts or anything duly done under them; or

right, privilege, obligation or right conferred, accrued or incurred under any of the said Acts; or

penalty, forfeiture or punishment incurred in respect of any offence committed against any of the said Acts;

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Acts had not been repealed.

(3) Subject to the provisions contained in sub-section (2) and notwithstanding the repeal of the Punjab Motor Vehicles Taxation Act, 1924 (Punjab Act 4 of 1924), as extended to Delhi,—

(i) every declaration delivered under that Act in respect of any motor vehicle shall be deemed to be a declaration delivered under this Act; and

(ii) every token issued under that Act and valid immediately before the commencement of this Act, shall continue to be valid after such commencement for the unexpired portion of the period for which it has been issued.

**25. Amendment of section 184.**—In the Delhi Municipal Corporation Act, 1957, (Act 66 of 1957), for section 184, the following section shall be substituted, namely:—

**“184. Central Government to pay proceeds of entertainment and betting taxes to Corporation.—**The proceeds of the entertainment and betting taxes collected in Delhi under the provisions of the U.P. Entertainment and Betting Tax Act, 1937 (U.P. Act 8 of 1937), as extended to Delhi which shall form part of the Consolidated Fund of India reduced by the cost of collection as determined by the Central Government shall, if Parliament by appropriation made by law in this behalf so provides, be paid to the Corporation for the performance of its functions under this Act.”

**SCHEDULE I**

(See section 3)

Description of motor vehicles 1	Annual rate of tax 2	Rs.
<b>PART. A.—Motor vehicles fitted solely with pneumatic tires—</b>		
I. Motor cycles and tricycles, including motor scooters and cycles with attachment for propelling the same by mechanical power)—		
(a) Motor cycles, scooters (Flat rate) ..	32	
(b) Scooterettes and auto cycles (Flat rate) ..	16	
(c) Tricycles (Flat rate) ..	40	
(d) Motor cycles or tricycles used for drawing a trailer or side car in addition to above rates ..	12	
II. Motor vehicles the registered unladen weight of which does not exceed 250 kilogrammes, adapted and used for invalids ..	8	
III. Motor vehicles (including tricycles) used for the transport or haulage of goods or materials—		
(a) Vehicles the registered laden weight of which does not exceed one tonne ..	140	
(b) Vehicles the registered laden weight of which exceeds one tonne but does not exceed 2 tonnes ..	200	
(c) Vehicles the registered laden weight of which exceeds 2 tonnes but does not exceed 4 tonnes ..	300	
(d) Vehicles the registered laden weight of which exceeds 4 tonnes but does not exceed 6 tonnes ..	400	
(e) Vehicles the registered laden weight of which exceeds 6 tonnes but does not exceed 8 tonnes ..	500	
(f) Vehicles the registered laden weight of which exceeds 8 tonnes but does not exceed 9 tonnes ..	600	
(g) Vehicles the registered laden weight of which exceeds 9 tonnes but does not exceed 10 tonnes ..	700	
(h) Vehicles the registered laden weight of which exceeds 10 tonnes ..	100 for every tonne or part thereof.	
(i) Additional tax payable in respect of such vehicles used for drawing trailers—		
(1) For each trailer the registered laden weight of which does not exceed 2 tonnes ..	100	

1	2	1	2
Rs.			
(2) For each trailer the registered laden weight of which exceeds 2 tonnes Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.		(ii) For each trailer the registered unladen weight of which exceeds 1 tonne Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.	80
IV. Motor vehicles (including tricycles) plying for hire and used for the transport of passengers— (a) Vehicles licensed to carry in all not more than two passengers (excluding driver)	80	PART B.—Motor vehicles other than those fitted solely with pneumatic tyres	The rates shown in Part A plus 50 per cent thereof.
(b) Vehicles licensed to carry in all more than two but not more than four passengers (excluding driver and conductor)		NOTE 1.—When tax is paid for the whole year at a time, a rebate of 10 per cent. of the rates specified in this Schedule shall be allowed.	
(c) Vehicles licensed to carry in all more than four passengers but not more than six passengers (excluding driver and conductor)	160	NOTE 2.—The registered unladen weight of a motor vehicle shall be as specified in the certificate of registration.	
(d) Vehicles licensed to carry in all more than six passengers but not more than eighteen passengers (excluding driver and conductor)	300		
(e) Vehicles licensed to carry more than eighteen passengers (excluding driver and conductor)	400		
V. Motor vehicles owned by Airline Companies or Corporations for carrying passengers and staff— (a) Vehicles the seating capacity of which does not exceed four (excluding driver)			
(b) Vehicles the seating capacity of which exceeds four but does not exceed six (excluding driver)	160		
(c) Vehicles the seating capacity of which exceeds six but does not exceed eighteen (excluding driver)	300		
(d) Vehicles the seating capacity of which exceeds eighteen	400		
VI. Break-down vans used for towing disabled vehicles			
VII. Motor vehicles other than those liable to tax under the foregoing provisions of this Schedule— (a) Vehicles the registered unladen weight of which does not exceed 1000 kilograms	200		
(b) Vehicles the registered unladen weight of which exceeds 1000 kilograms but does not exceed 1500 kilograms	80		
(c) Vehicles the registered unladen weight of which exceeds 1500 kilograms but does not exceed 2000 kilograms	100		
(d) Vehicles the registered unladen weight of which exceeds 2000 kilograms	140		
(e) Additional tax payable in respect of such vehicles used for drawing trailers— (i) for each trailer the registered unladen weight of which does not exceed 1 tonne	40		

## SCHEDULE II

[See section 24 (1)]

1. The Punjab Motor Vehicles Taxation Act, 1924 (Punjab Act 4 of 1924) as extended to Delhi.
2. The Punjab Motor Vehicles Taxation (Amendment) Act, 1940 (Punjab Act 2 of 1940) as extended to Delhi.
3. The Punjab Motor Vehicles Taxation (Delhi Amendment) Act, 1954 (6 of 1954).
4. The Punjab Motor Vehicles Taxation (Delhi Amendment) Act, 1955 (2 of 1956).
5. The Punjab Motor Vehicles Taxation (Delhi Amendment) Act, 1956 (10 of 1956).

Assentd to on 19-12-1962.

THE WAREHOUSING CORPORATIONS ACT, 1962  
(ACT NO. 58 OF 1962)

AN

ACT

to provide for the incorporation and regulation of corporations for the purpose of warehousing of agricultural produce and certain other commodities and for matters connected therewith.

Be it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Warehousing Corporations Act, 1962.  
(2) It extends to the whole of India except the State of Jammu and Kashmir.  
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. *Definitions.*—In this Act, unless the context otherwise requires,—

- "agricultural produce" means any of the following classes of commodities, namely:—  
(i) foodstuffs, including edible oil-seeds;  
(ii) cattle fodder, including oil-cakes and other concentrates;  
(iii) raw cotton, whether ginned or unginne, and cotton seed;  
(iv) raw jute; and  
(v) vegetable oils;
- "appropriate Government" means in relation to the Central Warehousing Corporation, the Central Government, and in relation to a State Warehousing Corporation, the State Government;
- "Central Warehousing Corporation" means the Central Warehousing Corporation established under section 3;
- "co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law with respect to co-operative societies for the time being in force in any State, which is engaged in the processing, marketing, storage, export or import of agricultural produce or any notified commodity or in insurance business and includes a co-operative land mortgage bank;
- "notified commodity" means any commodity (other than agricultural produce) which the Central Government may, by notification in the Official Gazette, declare to be a notified commodity for the purposes of this Act, being a commodity with respect to which Parliament has power to make laws by virtue of entry 33 in List III in the Seventh Schedule to the Constitution;

f) "prescribed" means prescribed by rules made under this Act;

g) "recognised association" means an association which is for the time being recognised by the Central Government under section 6 of the Forward Contracts (Regulation) Act, 1952 (74 of 1962);

h) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934);

i) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act 1934 (2 of 1934);

j) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

k) "State Warehousing Corporation" means a Warehousing Corporation for a State established or deemed to be established under this Act;

l) "Warehousing Corporation" means a Warehousing Corporation established or deemed to be established under this Act; and

m) "year" means the financial year.

## CHAPTER II

### THE CENTRAL WAREHOUSING CORPORATION

*The Central Warehousing Corporation.*—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Central Government shall establish a Corporation by the name of the Central Warehousing Corporation which shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract, and may, by the said date, sue and be sued.

2) The head-office of the Central Warehousing Corporation shall be at New Delhi.

*Share capital and shareholders.*—(1) The authorised share capital of the Central Warehousing Corporation shall be twenty crores of rupees divided into two hundred thousand shares of the value of one thousand rupees each; any shares remaining to be issued may be issued, with the sanction of the Central Government from time to time, as and when the Central Warehousing Corporation may deem fit.

2) The Central Government shall subscribe for forty per cent of the share capital issued at any time and the remaining sixty per cent of the share capital may be subscribed for, within such period in such proportion as may be specified by the Central Government, by the following institutions, namely:—

- (a) the State Bank;
- (b) other scheduled banks;
- (c) co-operative societies;
- (d) insurance companies, investment trusts and other financial institutions;
- (e) recognised associations and companies dealing in agricultural produce or any notified commodity.

3) If any portion of the sixty per cent of the share capital referred to in sub-section (2) remains unallotted, it may be subscribed for by the Central Government and the State Bank in such proportion as may be agreed upon between them and in default of such agreement, as may be determined by the Central Government.

4) The shares of the Central Warehousing Corporation shall be transferable except to the Central Government, the State Bank, any scheduled bank, any insurance company, any investment trust or other financial institution or any co-operative society or recognised association or company dealing in agricultural produce or any notified commodity, in accordance with the regulations made by the Central Warehousing Corporation under this Act.

*Shares to be guaranteed by Central Government and to be approved securities.*—(1) The shares of the Central Warehousing Corporation shall be guaranteed by the Central Government to the repayment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the Central Government, by notification published in the Official Gazette, at the time of the issue of the shares.

2) Notwithstanding anything contained in the Acts mentioned in this sub-section, the shares of the Central Warehousing Corporation shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882 (2 of 1882), and also be approved securities for the purpose of the Insurance Act, 1938 (of 1938), and the Banking Companies Act, 1949 (10 of 1949).

*Management of Central Warehousing Corporation.*—(1) The general superintendence and management of the affairs and business of the Central Warehousing Corporation shall vest in a board of directors who, with the assistance of an Executive Committee and a managing director, may exercise all the powers and discharge all the functions which may be exercised or discharged by the Central Warehousing Corporation under this Act.

2) The board of directors shall act on business principles having regard to public interest and shall be guided by such instructions

on questions of policy as may be given to them by the Central Government.

(3) If any doubt arises as to whether a question is or is not a question of policy, the decision of the Central Government shall be final.

7. *Directors.*—(1) The board of directors referred to in section 6 shall consist of the following, namely:—

- (a) six directors to be nominated by the Central Government;
- (b) one director to be nominated by the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962 (26 of 1962);
- (c) one director to be nominated by the State Bank;
- (d) one director to be elected by other scheduled banks;
- (e) one director to be elected by co-operative societies;
- (f) one director to be elected by insurance companies, investment trusts and other financial institutions, recognised associations and companies dealing in agricultural produce or notified commodities;
- (g) a managing director, appointed by the Central Government in consultation with the directors referred to in clauses (a) to (f):

Provided that the three directors to be elected under clauses (d) (e) and (f) may, for the first constitution of the board of directors, be nominated by the Central Government in such manner as to give representation to each class of institutions (whether they have become shareholders of the Corporation or not) referred to in those clauses, but a director so nominated shall hold office only until he is replaced by a director elected as provided in that clause, and the director so elected shall hold office only for so long as the director replaced would have held office had he not been replaced.

(2) The directors referred to in clauses (d), (e) and (f) of sub-section (1) shall be elected in the prescribed manner.

(3) If, within the period prescribed in this behalf, or within such further period as the Central Government may allow, the institutions referred to in clause (d) or clause (e) or clause (f) of sub-section (1) fail to elect a director, the Central Government may nominate a director to fill the vacancy.

(4) The board of directors shall have a Chairman and a Vice-Chairman who shall be appointed by the Central Government from among the directors.

- (5) The managing director shall—
  - (a) exercise such powers and perform such duties as the board of directors or the Central Warehousing Corporation may entrust or delegate to him; and
  - (b) receive such salary and allowances as the Central Warehousing Corporation may, with the approval of the Central Government, fix.

(6) The directors of the Central Warehousing Corporation other than the managing director shall be entitled to receive by way of remuneration such sums as the Central Warehousing Corporation may, with the approval of the Central Government, fix:

Provided that no official director shall be entitled to receive any remuneration other than the allowances, if any, admissible to him under the rules regulating his conditions of service.

(7) The term of office of, and the manner of filling casual vacancies among, the directors shall be such as may be prescribed.

8. *Disqualification for office of director of the Central Warehousing Corporation.*—A person shall be disqualified for being chosen as, and for being, a director of the Central Warehousing Corporation—

- (i) if he is found to be a lunatic or becomes unsound mind; or
- (ii) if he is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or
- (iii) if he is or has been convicted of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months, unless a period of five years has elapsed from the date of expiry of the sentence; or
- (iv) if he has been removed or dismissed from the service of the Government or a Corporation owned and controlled by the Government; or
- (v) except in the case of the managing director, if he is a salaried official of the Central Warehousing Corporation or any State Warehousing Corporation; or
- (vi) if he is personally interested in any subsisting contract made with, or in any work being done for the Central Warehousing Corporation except as a shareholder (other than a director) in any public company as defined in the Companies Act, 1956 (1 of 1956):

Provided that where any such person is a shareholder, he shall disclose to the Central Warehousing Corporation the nature and extent of shares held by him in such company.

9. *Removal of directors from office.*—(1) The Central Government may, at any time in consultation with the Central Warehousing

Corporation, remove the managing director from office after giving him a reasonable opportunity of showing cause against the proposed removal.

(2) The board of directors may remove from office any director who—

- (a) is or has become subject to any of the disqualifications mentioned in section 8; or
- (b) is absent without leave of the board of directors for more than three consecutive meetings of the board without cause sufficient in the opinion of the board, to exonerate his absence.

**10. Appointment of officers, etc., and their conditions of service.**—

(1) The Central Warehousing Corporation may appoint such officers and other employees as it considers necessary for the efficient performance of its functions.

(2) Every person employed by the Central Warehousing Corporation under this Act shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations made by the Corporation under this Act.

**11. Functions of Central Warehousing Corporation.**—Subject to the provisions of this Act, the Central Warehousing Corporation may—

- (a) acquire and build godowns and warehouses at such suitable places in India as it thinks fit;
- (b) run warehouses for the storage of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities offered by individuals, co-operative societies and other institutions;
- (c) arrange facilities for the transport of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities to and from warehouses;
- (d) subscribe to the share capital of a State Warehousing Corporation;
- (e) act as agent of the Government for the purposes of the purchase, sale, storage and distribution of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities; and
- (f) carry out such other functions as may be prescribed.

**12. Executive Committee.**—(1) There shall be an Executive Committee of the Central Warehousing Corporation which shall consist of—

- (a) the Chairman and the Vice-Chairman of the board of directors;
- (b) the managing director; and
- (c) two other directors chosen by the Corporation in the prescribed manner.

(2) The Chairman and the Vice-Chairman of the board of directors shall be the Chairman and the Vice-Chairman respectively of the Executive Committee.

(3) Subject to the general control, direction and superintendence of the board of directors, the Executive Committee shall be competent to deal with any matter within the competence of the Central Warehousing Corporation.

**13. Meetings of the Corporation.**—(1) The annual general meeting of the Central Warehousing Corporation (hereinafter referred to as the annual general meeting) shall be held every year either at its head-office or at any other office of the Corporation within six months of the close of the financial year, and any other general meeting may be convened by the board of directors at any other time.

(2) The shareholders present at the annual general meeting shall be entitled to discuss the annual accounts, the report of the board of directors on the working of the Corporation during the year under report, as well as the auditors' report on the annual balance-sheet and accounts.

(3) The board of directors of the Central Warehousing Corporation shall, on the requisition of one-third of the number of shareholders of the Corporation, call a special meeting of the Corporation.

(4) The requisition for a special meeting under sub-section (3) shall state the object of the meeting, and shall be signed by the requisitionists and deposited at the head-office of the Corporation, and may consist of several documents in like form each signed by one or more requisitionists.

(5) If the board of directors of the Central Warehousing Corporation do not proceed within twenty-one days from the date of the requisition being so deposited to cause the special meeting to be called, the requisitionists, or a majority of them, may, themselves call the meeting, but in either case, the meeting so called shall be held within three months from the date of the deposit of the requisition.

(6) The Central Warehousing Corporation shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Central Warehousing Corporation under this Act.

**14. Grants and loans by the Central Government.**—(1) The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Central Warehousing Corporation for the purposes of either fund maintained by the Corporation—

- (a) by way of grants, such sums of money as the Central Government may consider necessary; and
- (b) by way of loans, such sums of money on such terms and conditions as the Central Government may determine.

(2) When making a payment under sub-section (1), the Central Government shall specify the fund for the purposes of which the payment is made.

**15. Corporation to maintain two funds.**—The Central Warehousing Corporation shall maintain two separate funds, namely:—

- (a) the Central Warehousing Fund (hereinafter referred to as the Warehousing Fund); and
- (b) the General Fund.

**16. Warehousing Fund.**—(1) To the Warehousing Fund shall be credited—

- (a) all moneys and other securities transferred to the Central Warehousing Corporation under clause (c) of sub-section (2) of section 43;
- (b) such grants and loans as the Central Government may make for the purposes of the Warehousing Fund; and
- (c) such sums of money as may, from time to time, be realised out of the loans made from the Warehousing Fund or from interest on loans or dividends on investments made from that fund.

(2) The Warehousing Fund shall be applied—

- (a) for advancing loans to State Governments on such terms and conditions as the Central Warehousing Corporation may deem fit for the purpose of enabling them to subscribe to the share capital of State Warehousing Corporations;
- (b) for advancing loans and granting subsidies to State Warehousing Corporations or to State Governments on such terms and conditions as the Central Warehousing Corporation may deem fit for the purpose of promoting the warehousing and storage of agricultural produce and notified commodities, otherwise than through co-operative societies.

**17. General Fund.**—(1) To the General Fund shall be credited—

- (a) all sums received by the Central Warehousing Corporation other than those referred to in sub-section (1) of section 16;
- (b) such grants and loans as the Central Government may make for the purposes of the General Fund.

(2) The General Fund shall be applied—

- (a) for meeting the salary, allowances and other remuneration of the officers and other employees of the Central Warehousing Corporation;
- (b) for meeting the other administrative expenses of the Corporation; and
- (c) for carrying out the purposes of this Act.

### CHAPTER III

#### STATE WAREHOUSING CORPORATIONS

**18. State Warehousing Corporations.**—(1) The State Government may, by notification in the Official Gazette and with the approval of the Central Warehousing Corporation, establish a Warehousing Corporation for the State under such name as may be specified in the notification.

(2) A State Warehousing Corporation established under sub-section (1) shall be a body corporate by the name notified under that sub-section, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract, and may, by the said name, sue and be sued.

(3) The head-office of a State Warehousing Corporation shall be at such place within the State as may be notified in the Official Gazette.

(4) Notwithstanding anything contained in sub-sections (1) and (3), it shall not be necessary for the State Government to establish a Corporation under sub-section (1) where, under clause (g) of sub-section (2) of section 43, a Corporation is deemed to be established for that State under this Act.

**19. Share capital and share-holders.**—(1) The authorised capital of a State Warehousing Corporation shall be such sum not exceeding two crores of rupees as may be prescribed, divided into shares of the face value of one hundred rupees each, of which such number as may be determined by the Corporation in consultation with the State Government shall be issued in the first instance and the remaining shares may be issued, from time to time, as and when the Corporation may deem fit after consultation with the Central Warehousing Corporation and with the sanction of the State Government.

(2) Of the share capital issued in the first instance and of any subsequent issue of such capital, the Central Warehousing Corporation shall, in any case where the State Government has subscribed for fifty per cent of such capital, subscribe for the remaining fifty per cent of the capital.

20. *Management of a State Warehousing Corporation.*—(1) The general superintendence and management of the affairs of a State Warehousing Corporation shall vest in a board of directors which shall consist of the following, namely:—

- (a) five directors nominated by the Central Warehousing Corporation, of whom one shall be nominated in consultation with the State Bank and one at least shall be a non-official;
- (b) five directors nominated by the State Government; and
- (c) a managing director, appointed by the State Government in consultation with the directors referred to in clauses (a) and (b) and with the previous approval of the Central Warehousing Corporation.

(2) The Chairman of the board of directors shall be appointed by the State Government from among the directors of the State Warehousing Corporation with the previous approval of the Central Warehousing Corporation.

(3) The managing director shall—

- (a) exercise such powers and perform such duties as the board of directors or the State Warehousing Corporation may entrust or delegate to him; and
- (b) receive such salary and allowances as the State Warehousing Corporation may, in consultation with the Central Warehousing Corporation, and with the previous approval of the State Government, fix.

(4) The board of directors shall act on business principles having regard to public interest and shall be guided by such instructions on questions of policy as may be given to them by the State Government or the Central Warehousing Corporation.

(5) If any doubt arises as to whether a question is or is not a question of policy, or, if the State Government and the Central Warehousing Corporation give conflicting instructions, the matter shall be referred to the Central Government whose decision thereon shall be final.

(6) The directors of a State Warehousing Corporation, other than the managing director, shall be entitled to receive by way of remuneration such sums as may be prescribed:

Provided that no official director shall be entitled to receive any remuneration other than any allowances admissible to him under the rules regulating his conditions of service.

(7) The term of office of, and the manner of filling causal vacancies among, directors shall be such as may be prescribed.

21. *Disqualification for office of director of the Corporation.*—A person shall be disqualified for being chosen as, and for being, a director of a State Warehousing Corporation—

- (i) if he is found to be a lunatic or becomes of unsound mind; or
- (ii) if he is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or
- (iii) if he is or has been convicted of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months, unless a period of five years has elapsed from the date of expiry of the sentence; or
- (iv) if he has been removed or dismissed from service of Government or a corporation owned and controlled by the Government; or
- (v) except in the case of the managing director, if he is a salaried official of the Central Warehousing Corporation or a State Warehousing Corporation; or
- (vi) if he is personally interested in a subsisting contract made with, or in any work being done for, the State Warehousing Corporation except as a shareholder (other than a director) in any public company as defined in the Companies Act, 1956 (1 of 1956):

Provided that where any such person is a shareholder, he shall disclose to the Warehousing Corporation the nature and extent of the shares held by him in such company.

22. *Removal of directors from office.*—(1) The State Government may, at any time, with the previous approval of the Central Warehousing Corporation, remove the managing director from office after giving him a reasonable opportunity of showing cause against the proposed removal.

(2) The board of directors may remove from office any director or who—

- (a) is or has become subject to any of the disqualifications mentioned in section 21; or
- (b) is absent without leave of the board of directors for more than three consecutive months; but without cause sufficient, in the opinion of the board, to exonerate his absence.

23. *Appointment of officers, etc. and their conditions of service.*—(1) A State Warehousing Corporation may appoint such officers and other employees as it considers necessary for the efficient performance of its functions.

(2) Every person employed by a State Warehousing Corporation under this Act shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations made by the Corporation under this Act.

24. *Functions of the State Warehousing Corporation.*—Subject to the provisions of this Act, a State Warehousing Corporation may—

- (a) acquire and build godowns and warehouses at such places within the State as it may, with the previous approval of the Central Warehousing Corporation, determine;
- (b) run warehouses in the State for the storage of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities;
- (c) arrange facilities for the transport of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities to and from warehouses;
- (d) act as an agent of the Central Warehousing Corporation or of the Government for the purposes of the purchase, sale, storage and distribution, of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities; and
- (e) carry out such other functions as may be prescribed.

25. *Executive Committee.*—(1) There shall be an Executive Committee of a State Warehousing Corporation which shall consist of—

- (a) the Chairman of the Board of directors;
- (b) the managing director; and
- (c) three other directors chosen in the prescribed manner, of whom one shall be a director referred to in clause (a) of sub-section (1) of section 20.

(2) The Chairman of the board of directors shall be the Chairman of the Executive Committee.

(3) Subject to any general or special directions as the board of directors may, from time to time, give, the Executive Committee shall be competent to deal with any matter within the competence of the State Warehousing Corporation.

#### CHAPTER IV FINANCE, ACCOUNTS AND AUDIT

26. *Submission of programme of activities and financial estimates.*—

(1) Every Warehousing Corporation shall prepare before the commencement of each year a statement of programme of its activities during the forthcoming year as well as a financial estimate in respect thereof.

(2) A statement prepared under sub-section (1) shall, not later than three months before the commencement of each year, be submitted for approval—

- (a) in the case of the Central Warehousing Corporation, to the Central Government;
- (b) in the case of a State Warehousing Corporation, to the Central Warehousing Corporation and the State Government.

(3) The statement and the financial estimate of a Warehousing Corporation referred to in sub-section (1) may, with the approval of the Central Government in the case of the Central Warehousing Corporation, or with the approval of the Central Warehousing Corporation and the State Government in the case of a State Warehousing Corporation, be revised by the Warehousing Corporation.

27. *Borrowing powers of Warehousing Corporation.*—(1) A Warehousing Corporation may, in consultation with the Reserve Bank and with the previous approval of the appropriate Government, issue and sell bonds and debentures carrying interest for the purpose of raising funds:

Provided that the total amount of bonds and debentures issued and outstanding and of the other borrowings of the Corporation shall not at any time exceed ten times the amount of the paid-up share capital and the reserve fund of the Corporation.

(2) A Warehousing Corporation may, for the purpose of carrying out its functions under this Act, borrow money—

- (i) from the Reserve Bank, or
- (ii) from the State Bank, for such periods for which, and upon any of the securities against which, it is authorised to advance and lend moneys, under the provisions of the State Bank of India Act, 1955 (23 of 1955).

(3) Subject to the proviso to sub-section (1), the Central Warehousing Corporation may borrow money from the Central Government and a State Warehousing Corporation may borrow money from the State Government and the Central Warehousing Corporation on such securities and on such terms and conditions as may be agreed upon between the borrowing corporation and the lender, in each case.

(4) The bonds and debentures of a Warehousing Corporation may be guaranteed by the appropriate Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the appropriate Government on the recommendation of the board of directors of the Corporation at the time the bonds or debentures are issued.

28. *Deposit account.*—All moneys belonging to a Warehousing Corporation shall be deposited in the Reserve Bank or the State Bank or, subject to any rules made under this Act, in any scheduled bank or co-operative bank.

29. *Investment of funds.*—A Warehousing Corporation may invest its funds in the securities of the Central or any State Government or in such other manner as may be prescribed by the appropriate Government.

30. *Disposal of profits.*—(1) Every Warehousing Corporation shall establish a reserve fund out of its annual net profits.

(2) After making provision for bad and doubtful debts, depreciation on assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956 (1 of 1956), a Warehousing Corporation may, out of its net annual profits, declare a dividend:

Provided that for so long as the reserve fund is less than the paid-up share capital of the Central Warehousing Corporation and until there has been repaid to the Central Government such sum, if any, as that Government may have paid under a guarantee given in pursuance of sub-section (1) of section 5 or sub-section (4) of section 27, the rate of such dividend, in the case of the Central Warehousing Corporation, shall not exceed the rate guaranteed by the Central Government under sub-section (1) of section 5.

31. *Accounts and audit of Warehousing Corporation.*—(1) Every Warehousing Corporation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance sheet in such form as may be prescribed:

Provided that, in the case of the Central Warehousing Corporation, the accounts relating to the Warehousing Fund and the General Fund shall be maintained separately.

(2) The accounts of a Warehousing Corporation shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956 (1 of 1956).

(3) The said auditor shall be appointed by the appropriate Government on the advice of the Comptroller and Auditor-General of India.

(4) The auditor shall be supplied with a copy of the annual balance sheet and the profit and loss account of the Warehousing Corporation and it shall be his duty to examine them together with the accounts and vouchers relating thereto, and he shall have a list delivered to him of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may require from any officer of the Corporation such information and explanations as the auditor may think necessary for the performance of his duties as auditor.

(5) The auditor shall make a report to the shareholders on the accounts examined by him and on the annual balance sheet and the profit and loss account and in every such report, he shall state whether in his opinion the accounts give a true and fair view—

(a) in the case of the balance sheet, of the state of the Corporation's affairs at the end of its financial year, and

(b) in the case of the profit and loss account, of the profit or loss for its financial year,

and in case he has called for any explanation or information from the officers, whether it has been given and whether it is satisfactory.

(6) The appropriate Government may, after consultation with the Comptroller and Auditor-General of India at any time issue directions to the auditor requiring him to report to the appropriate Government upon the adequacy of measures taken by a Warehousing Corporation for the protection of its shareholders and creditors or upon the sufficiency of his procedure in auditing the accounts of the Corporation and may enlarge or extend the scope of the audit or direct that a different procedure in audit may be adopted or direct that any other examination may be made by the auditor if in the opinion of the appropriate Government public interest so requires.

(7) A Warehousing Corporation shall send a copy of every report of the auditor to the Comptroller and Auditor-General of India and to the Central Government at least one month before it is placed before the shareholders.

(8) Notwithstanding anything hereinbefore contained in this section, the Comptroller and Auditor-General of India may, either of his own motion or on a request received in this behalf from the appropriate Government, undertake in respect of a Warehousing Corporation such audit and at such time as he may consider necessary:

Provided that where the Central Government is required to make any payment on account of the guarantee given by it under sub-section (1) of section 5, such audit shall be undertaken by the Comptroller and Auditor-General of India or any person authorised by him in this behalf.

(9) The Comptroller and Auditor General of India and any person authorised by him in connection with the audit of the accounts of a Warehousing Corporation shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor General has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Corporation.

(10) The annual accounts of a Warehousing Corporation together with the audit report thereon shall be presented before the annual general meeting of the Corporation within six months of the close of the financial year.

(11) Every audit report under this section shall be forwarded to the appropriate Government within a month of its being placed before the annual general meeting and that Government shall as soon thereafter as may be cause the same to be laid before both Houses of Parliament or the Legislature of the State, as the case may be.

## CHAPTER V

### MISCELLANEOUS

32. *Vacancies, etc. not to invalidate acts and proceedings of Warehousing Corporations.*—No act or proceeding of a Warehousing Corporation shall be invalid by reason only of the existence of any vacancy among its directors or any defect in the constitution thereof.

33. *Delegation.*—A Warehousing Corporation may, by general or special order in writing, delegate to the Secretary or other officer of the Corporation, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary for the efficient performance of its functions.

34. *Voting rights of shareholders.*—In any meeting of the shareholders of a Warehousing Corporation, every member shall have one vote in respect of each share held by him in the Corporation.

35. *Disputes between Central Warehousing Corporation and State Warehousing Corporation.*—If there is any difference of opinion between the Central Warehousing Corporation and a State Warehousing Corporation regarding their respective functions and powers under this Act, such difference shall be referred to the Central Government whose decision thereon shall be final.

36. *Declaration of fidelity and secrecy.*—Every director, auditor, officer or other employee of a Warehousing Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule.

37. *Indemnity of directors.*—(1) Every director of a Warehousing Corporation shall be indemnified by the Corporation concerned against all losses and expenses incurred in the discharge of his duties except such as are caused by his own wilful act or default.

(2) A director of a Warehousing Corporation shall not be responsible for any other director or for any officer or other employee of the Corporation or for any loss or expense resulting to the Corporation by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation in good faith, or by the wrongful act of any person under obligation to the Corporation or by anything done in good faith in the execution of the duties of his office or in relation thereto.

38. *Offences.*—(1) Whoever, without the consent in writing of a Warehousing Corporation, uses the name of that Corporation in any prospectus or advertisement, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No court shall take cognizance of any offence under subsection (1) otherwise than on a complaint in writing by an officer, authorised in this behalf by the Warehousing Corporation concerned.

39. *Provisions relating to income-tax and super-tax.*—For the purposes of the Income-tax Act, 1961 (43 of 1961), a Warehousing Corporation shall be deemed to be company within the meaning of that Act and shall be liable to income-tax and super-tax accordingly on its income, profits and gains:

Provided that, in the case of the Central Warehousing Corporation, any sum paid by the Central Government under the guarantee given in pursuance of sub-section (1) of section 5 or, in the case of a Warehousing Corporation, any sum paid by the Central or a State Government under any guarantee given in pursuance of sub-section (4) of section 27 shall not be treated as income, profits and gains of a Warehousing Corporation, and any interest on the debentures or bonds issued by that Corporation out of such sums shall not be treated as expenditure incurred by it:

Provided further that in the case of any shareholder or debenture-holder, such portion of a dividend or interest as has been paid out of any such sum advanced by the Central Government shall be deemed to be his income from interest on securities declared to be income-tax-free within the meaning of section 86 of that Act.

40. *Winding up of Warehousing Corporations.*—No provision of law relating to the winding up of companies or corporations shall apply to a Warehousing Corporation and any such Corporation shall not be placed in liquidation save by order of the appropriate Government and in such manner as it may direct.

41. *Power to make rules.*—(1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the additional functions which a Warehousing Corporation may perform;
- (b) the manner of nomination and election of the directors of the Central Warehousing Corporation and the period within which such directors shall be nominated or elected;
- (c) the term of office of, and the manner of filling casual vacancies among, and the remuneration payable to, the directors of a Warehousing Corporation;
- (d) the manner of choosing directors on the Executive Committee of a Warehousing Corporation;
- (e) the authorised capital of a State Warehousing Corporation within the limit specified in sub-section (1) of section 19;
- (f) the form of the annual statement of accounts and the balance-sheet to be prepared by a Warehousing Corporation;
- (g) the deposit of moneys of a Warehousing Corporation in a scheduled bank or a co-operative bank;
- (h) the manner of issuing shares of a Warehousing Corporation, the calls to be made in respect thereof, and all other matters incidental to the issue of shares;
- (i) any other matter which has to be or may be prescribed.

(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

42. *Power of Warehousing Corporations to make regulations.*—(1) A Warehousing Corporation may, with the previous sanction of the appropriate Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the conditions of service of, and the remuneration payable to, the officers and other employees of a Warehousing Corporation;
- (b) the manner in which, and the conditions subject to which, shares of the Central Warehousing Corporation may be transferred;
- (c) the manner in which meetings of a Warehousing Corporation and the Executive Committee thereof shall be convened, the fees for attending such meetings and the procedure to be followed thereat;
- (d) the duties and conduct of officers and employees of a Warehousing Corporation;
- (e) the powers and duties which may be entrusted or delegated to the managing director of a Warehousing Corporation;

(f) generally, the efficient conduct of the affairs of a Warehousing Corporation.

(3) The appropriate Government may, by notification in the Official Gazette, rescind any regulation which it has sanctioned and thereupon the regulation shall cease to have effect.

43. *Repeal and savings.*—(1) With effect from the date on which the Central Warehousing Corporation is established under section 3, the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956), in so far as it has not been repealed by the National Co-operative Development Corporation Act, 1962 (26 of 1962), shall stand repealed.

(2) Notwithstanding such repeal,—

- (a) the shares allotted and the share certificates issued by the Central Warehousing Corporation established under the repealed Act (hereinafter referred to as the said Corporation) shall be deemed to have been allotted and issued by the Corporation established under section 3 of this Act as if this Act had been in force on the day on which the shares were allotted and the share certificates were issued;
- (b) every shareholder of the said Corporation shall become the holder of as many shares in the Corporation established under section 3 of this Act as are equivalent in number and value to the shares held by him in the said Corporation;
- (c) all moneys and other securities belonging to the National Warehousing Development Fund which, immediately before the said date, was maintained by the said Corporation shall stand transferred to and be maintained by the Corporation established under section 3 of this Act;
- (d) anything done or any action taken (including any appointment, nomination, delegation, rule or regulation made) under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act;
- (e) every share held by the said Corporation in a State Warehousing Corporation under the repealed Act shall be deemed to be a share held by the Corporation established under section 3 of this Act in the corresponding State Warehousing Corporation deemed to be established under this Act;
- (f) all rights, liabilities and obligations of the said Corporation, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Corporation established under section 3 of this Act;
- (g) a State Warehousing Corporation established for a State under the repealed Act shall be deemed to be the State Warehousing Corporation established for that State under this Act.

#### THE SCHEDULE

(See section 36)

#### DECLARATION OF FIDELITY AND SECRECY

I, declare that I will faithfully, truly and to the best of my judgment, skill and ability execute and perform the duties which are required of me as a director, officer, employee or auditor (as the case may be) of the Warehousing Corporation and which properly relate to the office or position in the said Corporation held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the said Corporation nor will I allow any such person to inspect or have access to any books or documents belonging to, or in the possession of, the Corporation and relating to the business of the Corporation.

Signature

Signature

Signature

Signed before me  
Date